UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ESTATE OF ERIC RIVERA, by and through successors in interest, PHILLIP MALIK and VALERIE RIVERA; PHILLIP MALIK, individually; VALERIE RIVERA, individually,

Plaintiffs,

vs.

Case No. 2:17-CV-06939-CBM

CITY OF LOS ANGELES; LOS ANGELES POLICE DEPARTMENT; ARTURO URRUTIA; DANIEL RAMIREZ, and DOES 1 to 10,

Defendants.

CONFIDENTIAL PORTIONS OF THE

VIDEOTAPED DEPOSITION OF DANIEL RAMIREZ

Long Beach, California

Thursday, December 27, 2018

Reported by: Gina Anne George
CSR No. 11260
LitiCourt Job No.: 201467

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Defendants.

CONFIDENTIAL PORTIONS OF THE VIDEOTAPED DEPOSITION OF DANIEL RAMIREZ, taken on behalf of the plaintiffs at 3777 Long Beach Boulevard, Third Floor, Long Beach, California, beginning at 2:43 p.m., and ending at 5:57 p.m. on Thursday, December 27, 2018 before Gina Anne George, Certified Shorthand Reporter No. 11260.

APPEARANCES:

FOR THE PLAINTIFFS:

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FOR THE DEFENDANTS:

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ALSO PRESENT:

CRAIG SCHUMACHER, The Videographer
PHILIP MALIK
VALERIE RIVERA
ANDRES MARTINEZ
ARTURO URRUTIA
BRADLEY HEARN
MARC STERNIN
JAMES TALMAGE
BRIAN HUN

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EXHIBITS

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Exhibit 15	Color copy of photograph (Confidential)	60
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The information contained on pages 1 to 43, 58 to 61 and 116 to 120 has not been designated as confidential and those pages are bound separately.

Exhibit 12 was marked in the non-designated portion of the transcript and is bound with the non-designated portion of the transcript.

QUESTIONS NOT ANSWERED

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LONG BEACH CALIFORNIA;

THURSDAY, DECEMBER 27, 2018, 2:43 P.M.

* * *

DANIEL RAMIREZ,

having been first duly placed under oath by the reporter, was examined and testified as follows:

EXAMINATION

BY MR. CASILLAS:

Q In light of -- I'll repeat my question. After having read it -- and by the way, when was it that you first read it? 03:35:52 03:35:54 03:35:56

A I first read it with my attorney, under my attorney. 03:35:59 03:36:01

Q When was that? 03:36:03

A Approximately two weeks ago. 03:36:05

Q And were you given a copy of it? 03:36:07

A Yes, sir. 03:36:09

Q And other than reading it that first time, did you read it again to -- again, just refresh your recollection about what had happened? 03:36:09 03:36:13 03:36:17

A It was reviewed again. 03:36:19

Q Okay. And so you read it at least twice 03:36:20

before coming here today. 03:36:24
Did you read it a third time? 03:36:25
A Yes, sir. 03:36:27
Q Okay. And did you read it just to make sure 03:36:27
that everything that was in there that was recorded 03:36:31
in that transcript was accurate? 03:36:35
A Yes, sir. 03:36:38
Q And as you sit here today, is it, in fact, 03:36:39
accurate? 03:36:42
A From my perception of that night, yes. 03:36:44
Q Okay. Did you make a statement of anything 03:36:47
that you saw that night that as you sit here today 03:36:50
you want to change? 03:36:54
MR. BRENTE: Okay. Are you asking him is 03:36:57
there something that he now knows to be different 03:36:59
than what he told FID? Is that what you're asking 03:37:01
him? 03:37:03
MR. CASILLAS: No. 03:37:04
MR. BRENTE: Then I don't know. 03:37:04
If you know what he's asking you. 03:37:05
THE WITNESS: As far as changing it, I can't 03:37:08
say I would change anything right now -- 03:37:11
BY MR. CASILLAS: 03:37:13
Q Okay. 03:37:13
A -- due the time it's been since the 03:37:13

incident. 03:37:17
Q Did you also -- did you also review the -- 03:37:17
we're still on confidential. Okay. Did you also 03:37:36
review the body cam footage that was recorded by the 03:37:59
video equipment you were wearing the night that you 03:38:05
shot Eric Rivera? 03:38:08
A For the body-worn video? 03:38:09
Q Yes. 03:38:11
A Yes. 03:38:12
Q Other than -- and when was the last time 03:38:12
that you reviewed it? 03:38:21
A Approximately one week ago. 03:38:26
Q And I'm going to identify a copy of what I 03:38:29
believe to be the footage from your body-worn camera. 03:38:34
I want to identify it and make sure that it is one 03:38:37
that what you reviewed and, two, that it accurately 03:38:41
represents what you remember happening. 03:38:45
And let me ask you first then, after 03:38:49
reviewing the footage from your body-worn camera, did 03:38:51
you conclude that it accurately depicted what had 03:38:56
happened that night? 03:39:00
MR. BRENTE: I'll just object as vague and 03:39:03
ambiguous. 03:39:05
THE WITNESS: Can you be more specific? 03:39:05
BY MR. CASILLAS: 03:39:06

Q Yeah. You looked at it and did you say, yeah, that's -- that's what happened that night? 03:39:06 03:39:10

A Unfortunately due to the positioning of where my hands were in conjunction with the body worn, you couldn't see all the movements that I perceived from the body worn. 03:39:13 03:39:16 03:39:18 03:39:22

Q And you're using that magic word. 03:39:25

Do you remember seeing Mr. Rivera move? 03:39:29

A Yes. 03:39:32

Q And did any of the movement that you remember seeing, were any of those captured in the body cam video that you saw or at least that you yourself could discern? 03:39:34 03:39:38 03:39:41 03:39:44

A Unfortunately not. 03:39:46

Q The video from your body-worn camera also contained audio. 03:39:48 03:40:00

Would you agree? 03:40:02

A Yes, sir. 03:40:03

Q Did you listen to the audio? 03:40:04

A Yes, sir. 03:40:06

Q Did you make out your own voice in the audio? 03:40:06 03:40:10

A Yes, sir. 03:40:10

Q I'm going to play just a brief portion of it with you. 03:40:14 03:40:19

And you were the driver of the patrol car. 03:40:20
A Yes, sir. 03:40:24
MR. BRENTE: Are you making that as an 03:40:28
exhibit? 03:40:30
MR. CASILLAS: Yes. 03:40:30
MR. BRENTE: That will be under seal as 03:40:31
well. That will be 14. 03:40:35
MR. CASILLAS: Yes. 03:40:37
(Plaintiffs' Exhibit 14 was marked.) 03:40:37
(Whereupon the video was played.) 03:40:55
BY MR. CASILLAS: 03:41:23
Q Based on that portion that you just 03:41:27
reviewed, does this appear to be the footage from the 03:41:28
body-worn camera that you were wearing that night? 03:41:36
A Yes. 03:41:38
Q Again, we'll attach a copy of that as 03:41:39
Exhibit No. 14. 03:41:44
At some time before you gave the statement 03:42:13
to FID, did you participate in a walkthrough of the 03:42:15
shooting at the location of the shooting? 03:42:32
A Prior to my FID interview, yes, I did. 03:42:34
Q And was Mr. Urrutia with you? 03:42:38
A No. 03:42:41
Q And do you know where he was? 03:42:41
A He was at the hospital. 03:42:44

Q Did you believe he had been shot? 03:42:45
MR. BRENTE: Objection; vague as to time. 03:42:48
BY MR. CASILLAS: 03:42:50
Q At the time he participated in the 03:42:51
walkthrough, did you believe Mr. Urrutia had been 03:42:54
shot? 03:42:56
A From that night? 03:42:56
Q Yes. 03:42:57
A Yes. 03:42:58
Q Okay. And what was it about the 03:42:58
circumstances that led you to believe that he had 03:43:01
been shot? 03:43:04
A Due to the totality of the circumstances, we 03:43:04
received a radio call, man with a gun, and then we 03:43:10
encounter Mr. Rivera and he had a firearm in his hand 03:43:14
and he raised it towards me and my partner's 03:43:18
direction, at which point deadly force was used 03:43:21
because it was eminent threat, and I heard my round 03:43:25
coming from my partner's side, so I couldn't 03:43:29
disseminate where those sounds were coming from; so 03:43:33
hearing my partner in agony, it seemed that he may 03:43:37
have been shot. 03:43:44
Q Could he have shot himself? 03:43:45
A I couldn't tell you. I didn't see it. 03:43:48
Q Did you ever see any muzzle flashes -- and 03:43:50

by the way, from the time that you got out of your patrol car until you fired your last round at Mr. Rivera, did you take your eyes off of Mr. Rivera? 03:43:54 03:43:57 03:44:01

A From when I took my first shot? I'm sorry. Could you repeat it, Mr. Casillas? 03:44:06 03:44:08

Q From the time you get out your patrol car and until the time you shot your last round at Mr. Rivera, did you take your eyes off of him? 03:44:11 03:44:14 03:44:17

A Yes, momentarily as I'm exiting the vehicle. 03:44:20

Q All right. And at what point did you regain a visual on Mr. Rivera after you exited the vehicle when you took your eyes off of him? 03:44:24 03:44:30 03:44:34

A As I'm exiting the vehicle, I realize that I may be stepping into traffic. As a result, I don't want to get hit. I just take my eyes off Mr. Rivera momentarily for approximately half a second, and I clear my left, make sure there's nothing to my left -- 03:44:36 03:44:39 03:44:43 03:44:47 03:44:51 03:44:54

Q Okay. 03:44:55

A -- and then I look towards Mr. Rivera's direction. 03:44:55 03:44:58

Q And in that time from the time you took your eye off Mr. Rivera until you got a visual back on him after clearing your left, did you hear any gunshots? 03:44:58 03:45:01 03:45:05

A No, sir. 03:45:08

Q From the time you got Mr. Rivera back in your field of view until the time you fired your last gunshot, did you take your eye off of Mr. Rivera again? 03:45:08 03:45:14 03:45:19 03:45:23

A No, sir. 03:45:24

Q During that time, again, from the time you regained the visual on Mr. Rivera after clearing your left until the time you shot your last round, did you see any muzzle flashes coming from Mr. Rivera? 03:45:25 03:45:28 03:45:32 03:45:36

A I don't remember. 03:45:42

Q And do you know what a muzzle flash is? 03:45:43

A Yes, sir. 03:45:46

Q What is that? 03:45:46

A Due to the small explosion inside the barrel ejecting the casing, as a result of the explosion, there is a small fire that comes out of the front of the barrel. 03:45:47 03:45:52 03:45:56 03:45:59

Q And have you seen muzzle flashes in the dark either in training or out when you're on duty? 03:45:59 03:46:04

A In training. 03:46:10

Q Okay. So you're familiar with what a muzzle flash looks like. Yes? 03:46:11 03:46:13

A Yes, sir. 03:46:15

Q And you're confident in your ability to identify a muzzle flash. Yes? 03:46:16 03:46:20

A That's a tough question. Sometimes there isn't one. Sometimes there is no a muzzle flash and there is a discharge of a firearm. 03:46:24 03:46:27 03:46:30

Q Right. At least when you see a muzzle flash, you could identify it. 03:46:32 03:46:34

Is that fair? 03:46:35

A Yes, sir. 03:46:36

Q And did you see any muzzle flash coming from the direction of or the -- from Mr. Rivera and his person? 03:46:36 03:46:41 03:46:46

A Mr. Casillas, I couldn't tell you at this moment. I don't remember. 03:46:46 03:46:49

Q Okay. Do you remember telling the FID investigators that you did not see a muzzle flash? 03:46:49 03:46:56

MR. BRENTE: So just -- because I'm not clear, we're still under seal. Yes? 03:47:00 03:47:02

MR. CASILLAS: (No audible response.) 03:47:04

MR. BRENTE: Go ahead. 03:47:06

THE WITNESS: After reviewing my FID document, I don't believe that was ever posed as a question or I never said in the interview. 03:47:07 03:47:09 03:47:12

MR. CASILLAS: All right. Anyway, we'll go off of the confidential record, Counsel. 03:47:14 03:47:16

MR. BRENTE: If you're not asking confidential things, I agree. 03:47:19 03:47:20

(Whereupon counsel agree to go off the confidential portion of the transcript.) 03:47:20

/ / / 03:47:20

/ / / 03:47:20

/ / / 03:47:22

03:47:22

BY MR. CASILLAS:

Q What does that photograph depict? 03:51:42

A It looks like it depicts the instance -- in 03:51:43

instance -- I'm sorry -- the facts what happened that 03:51:49

night of the shooting. 03:51:50

Q Does it as best you can tell depict where 03:51:52

Mr. Rivera was standing at the time you shot him? 03:51:55

A It does seem that way. 03:52:01

Q Okay. There's an individual that is 03:52:02

standing there. 03:52:05

Do you see that individual? 03:52:06

A On the sidewalk? 03:52:08

Q Yeah. 03:52:09

A Yes, sir. 03:52:11

Q And he is standing on the -- and when I use 03:52:12

the term driveway apron, do you understand what a 03:52:17

driveway apron is? 03:52:20

A Yes. 03:52:22

Q What is a driveway apron? 03:52:22

A It is a point of the curb that is broken 03:52:24

where it allows a vehicle to enter a driveway without 03:52:26

hitting a curb. 03:52:29

Q And it's that ramp portion that I'm 03:52:29

referring to. 03:52:31

Do you understand that to be the driveway 03:52:32

apron? 03:52:35
A Yes, sir. 03:52:35
MR. CASILLAS: I want to show you another 03:52:35
photograph we're going to mark that as next in order 03:52:36
No. 16. Would you do the honors? Thanks. 03:52:41
(Plaintiffs' Exhibit 16 was marked.) 03:52:41
BY MR. CASILLAS: 03:52:41
Q Do you see that photograph? 03:52:49
A Yes, sir. 03:52:50
Q And there is a gentleman standing there on 03:52:52
the driveway apron, correct? 03:52:56
A Yes, sir. 03:52:58
Q And is that, as best you could tell here 03:52:59
today, the position where Eric Rivera was standing 03:53:01
when you shot at him? 03:53:04
MR. BRENTE: Okay. So we just need to be 03:53:05
clear about this. Are you just asking him about in 03:53:08
relation to where the feet are on the ground or are 03:53:10
you asking anything else about this photograph? 03:53:12
BY MR. CASILLAS: 03:53:14
Q I'm just asking where that individual is 03:53:15
standing depicted there in Exhibit No. 16, is that 03:53:17
where Eric Rivera was standing? 03:53:21
A As far as standing only? 03:53:23
Q Yes. 03:53:25

A Yes. 03:53:26
Q Okay. Now, the individual in this 03:53:26
photograph appears to be holding something in his 03:53:29
right hand. 03:53:31
Do you see that? 03:53:32
A Yes, sir. 03:53:32
Q Does that appear to be a squirt gun similar 03:53:34
to the squirt gun that we looked at earlier, 03:53:37
Exhibit No. 12? 03:53:40
A Due to being -- not being up close and 03:53:42
personal, I couldn't tell you that right now. 03:53:45
Q And did you ever see Mr. Rivera standing in 03:53:50
this configuration, in other words, facing you with 03:53:53
both of his arms at his side? 03:53:57
A No. 03:54:00
Q Now, the individual in this photograph is 03:54:00
holding something in his right hand. 03:54:06
Would you agree? 03:54:09
A Yes, the individual in this picture is 03:54:10
holding something in his right hand, yes. 03:54:13
Q Now, you believe your testimony or your 03:54:14
statements before have consistently been that 03:54:17
Mr. Rivera was holding something in his left hand, 03:54:21
true? 03:54:25
A Yes, sir. 03:54:25

Q Okay. And did you ever see Mr. Rivera holding anything in his right hand? 03:54:26 03:54:30

A No, sir. 03:54:33

Q To the extent you claim to have seen anything being held by Mr. Rivera, he was holding it in his left hand, correct? 03:54:33 03:54:39 03:54:45

A Yes, sir. 03:54:48

Q Have you ever met Eric Rivera at any time before June 6th, 2017? 03:54:53 03:56:21

A No, sir. 03:56:25

Q Now, I understand you grew up in that general area. Yes? 03:56:26 03:56:28

A In the area, yes. 03:56:30

Q And before you stopped your vehicle, did you believe the night of the shooting of Mr. Rivera and before you got out of your patrol car, did you believe that Mr. Rivera was a gang member? 03:56:31 03:56:44 03:56:48 03:56:51

A I couldn't tell. 03:56:56

Q Okay. Was there anything about his attire that suggested to you that he was a gang member? 03:56:58 03:57:01

A No. 03:57:07

Q Okay. In light of that, is it fair to say that to the extent you had any fear, you did not fear that he was a gang member, correct? 03:57:08 03:57:11 03:57:17

A Unfortunately, due to now circumstances that 03:57:21

gang members have altered their appearance, unfortunately due to a perception that was done in the '80s of gangsters having long white shirts and Dickie pants and white shoes, gang members have altered their appearance to resemble -- it's odd to say -- but a law-abiding citizen. 03:57:24 03:57:27 03:57:30 03:57:35 03:57:39 03:57:45

Q And I get that, but my question is, was there anything about -- you didn't think he was a gang member, did you? 03:57:47 03:57:51 03:57:54

A I couldn't tell you, but he didn't seem like one, no. 03:57:56 03:58:00

Q Okay. And I guess that's my point. In all of the factors that you considered, one of them wasn't, goodness, he's a gang member, correct? 03:58:01 03:58:03 03:58:07

A No. 03:58:11

Q Okay. And that's a horrible way to ask a question. It's a double negative, so let me rephrase that. 03:58:11 03:58:14 03:58:17

Was one of the factors that you considered before you shot Mr. Rivera was that he was a gang member? 03:58:19 03:58:23 03:58:31

A No. 03:58:31

Q Did you make -- did you have time to make an assessment as to whether or not he was under the influence of drugs? 03:58:33 03:58:40 03:58:44

A I did not have time to make an assessment for that, no. 03:58:45 03:58:48

Q And so in light of that, when you shot him, whether or not he was on drugs was not a factor that went into your decision-making, correct? 03:58:49 03:58:54 03:58:59

A Correct, sir. 03:59:02

Q Prior to shooting Mr. Rivera in the line of duty -- and by the way, you did it in the line of the duty, there's no doubt in your mind, correct? 03:59:04 03:59:30 03:59:33

A Yes, sir. 03:59:35

Q Okay. And prior to that shooting, had you ever been involved in any other incident where you discharged your firearm in the line of duty at another person? 03:59:35 03:59:41 03:59:49 03:59:52

MR. BRENTE: So I'm going to object, it calls for confidential peace officer personnel record information and additional official information, invades the officer's right to privacy. 03:59:53 03:59:55 03:59:58 04:00:00

I'm going to instruct him not to answer. 04:00:02

MR. CASILLAS: I propose that you allow me to ask that question in a confidential setting on a confidential transcript. 04:00:04 04:00:06 04:00:10

MR. BRENTE: And I respectfully decline the offer. 04:00:10 04:00:13

BY MR. CASILLAS: 04:00:14

Q On June 6th, 2017 had you qualified on the range? 04:00:22 04:00:30

MR. BRENTE: On that day? 04:00:31

BY MR. CASILLAS: 04:00:32

Q No. By that point were you qualified? 04:00:33

A We're required to qualify every two months. 04:00:36

Q Right. 04:00:38

A As far as a cycle is concerned, I'm not sure if I did qualify yet or I qualified after, but I do qualify on every qualifying cycle. 04:00:39 04:00:43 04:00:47

Q Have you ever failed to qualify? 04:00:49

A Yes. 04:00:51

Q Okay. And do you know you had failed to qualify during that cycle that you were in at the time you shot Eric Rivera? 04:00:51 04:00:53 04:00:58

A No, sir, failure to qual was due to a mechanical error. 04:01:00 04:01:03

Q Prior to June 6, 2017, had you worked directly with Officer Urrutia? 04:01:05 04:01:22

A No, sir. 04:01:26

Q Okay. Had you met him prior to June 6th? 04:01:27

A Not formally. 04:01:31

Q Did you know of him? 04:01:33

A Yes. 04:01:36

Q Since then have you worked together? 04:01:37

A Yes. 04:01:39
Q Since then have you discussed the Rivera 04:01:41
shooting at all? 04:01:44
MR. BRENTE: Okay. So that excludes any 04:01:46
conversations that were in my presence or any of your 04:01:49
attorneys' presence, so if you had conversations with 04:01:53
him outside of my presence or any other city 04:01:55
attorney's presence, please answer counsel's 04:01:59
question. 04:02:02
BY MR. CASILLAS: 04:02:02
Q Let me rephrase the question. 04:02:02
Excluding any conversations that you had 04:02:04
with Mr. Urrutia while any of your attorneys were 04:02:05
present, have you ever discussed the Rivera shooting 04:02:09
with him? 04:02:16
A Yes, sir. 04:02:16
Q How many times? 04:02:18
A I couldn't honestly tell you. 04:02:21
Q More than ten? 04:02:23
A Possibly. 04:02:25
Q Okay. Do you remember the first time that 04:02:26
you discussed it with him outside the presence of 04:02:30
your attorneys? 04:02:33
A It was way after the incident. 04:02:35
Q Approximately how long? 04:02:38

A I want to say approximately two months. 04:02:43
Q And what was the nature of that -- where did 04:02:47
that conversation take place? 04:02:49
A It was over the phone. 04:02:51
Q Did he call you or did you call him? 04:02:52
A I don't remember. 04:02:55
Q Do you remember calling him at all ever to 04:02:58
discuss the shooting? 04:03:00
A I don't remember. 04:03:04
Q The conversations over the phone -- and by 04:03:06
the way, were these all -- all the conversations that 04:03:11
you had with Mr. Urrutia about the shooting conducted 04:03:15
over the phone? 04:03:19
A No. 04:03:19
Q Do you consider Mr. Urrutia a social friend? 04:03:21
MR. BRENTE: I'll just object as vague and 04:03:27
ambiguous. 04:03:27
But you can answer if you understand. 04:03:29
THE WITNESS: A social friend outside of 04:03:30
work? 04:03:32
BY MR. CASILLAS: 04:03:32
Q Yes. 04:03:33
A Yes. 04:03:33
Q Have you ever been over to his house? 04:03:33
A No. 04:03:35

Q Has he ever been over to your place? 04:03:36
A Yes. 04:03:39
Q Okay. Have you guys ever gone out socially, 04:03:40
a ball game, a party, a club? 04:03:44
A No, sir. 04:03:47
Q Were you social friends before the shooting? 04:03:51
A No, sir. 04:03:55
Q Do you remember Mr. Urrutia shooting at 04:03:58
Mr. Rivera before you shot? 04:04:15
A No. 04:04:17
Q Do you believe you shot first? 04:04:20
A From what I perceived that night, I couldn't 04:04:25
tell, but after reviewing my body worn and what I 04:04:32
know now, I did shoot first. 04:04:35
Q Was June 6th the first time you had been 04:04:37
partnered up with Mr. Urrutia? 04:05:23
A June 6th, 2017? 04:05:26
Q Yes. 04:05:28
A Yes, sir. 04:05:28
Q And do you remember the briefing that took 04:05:29
place at the start of the shift that day? 04:05:32
MR. BRENTE: Okay. So I'm going to object. 04:05:34
Are you talking about rollcall? 04:05:36
MR. CASILLAS: Yes. 04:05:37
THE WITNESS: There was a rollcall. I do 04:05:38

not remember what was discussed during rollcall. 04:05:40
BY MR. CASILLAS: 04:05:42
Q Do you know how it was that you were 04:05:44
assigned as partners? 04:05:46
A I don't know, but we were partners that 04:05:50
night. 04:05:53
Q You checked out equipment. 04:05:54
A One of us did. 04:05:58
Q Okay. 04:05:59
A Or both. 04:06:01
Q The patrol car that you drove that day, had 04:06:02
you driven it before? 04:06:06
A It was only my second month there, so I'm 04:06:10
not sure. I couldn't tell you. I had driven the 04:06:13
same model type, but that specific vehicle, I'm not 04:06:18
sure. 04:06:21
Q And do you remember the model type? 04:06:23
A It's a Ford Crown Victoria. 04:06:25
Q And you've probably driven a Ford Crown 04:06:28
Victoria patrol car probably thousands of times by 04:06:33
the time June 6th rolls around, correct? 04:06:36
A I don't know if I could tell you thousands 04:06:40
of times because we work a certain amount of days 04:06:42
throughout the year. 04:06:45
Q At least hundreds of times? 04:06:46

A At least hundreds of times. 04:06:47
Q And were you confident in its operation? 04:06:49
MR. BRENTE: I'll just object as vague and 04:06:57
ambiguous and overly broad. 04:06:59
You can answer if you understand. 04:07:01
THE WITNESS: As far as confident, sir, what 04:07:03
do you mean? 04:07:03
BY MR. CASILLAS: 04:07:03
Q Were you confident in your abilities to 04:07:05
operate a Crown Victoria LAPD patrol car? 04:07:08
A In the manner of could I properly or could 04:07:12
the car's functions, could it break, could it 04:07:16
accelerate? 04:07:16
Q I'm going to assume that the car was in good 04:07:21
shape, but my question relates to your abilities to 04:07:23
operate, to drive that patrol car. 04:07:30
Were you confident in your abilities to do 04:07:32
so? 04:07:34
A Yes, sir. 04:07:35
Q And as you as sit here today and to the 04:07:35
extent you could recall any of its functioning on 04:07:39
June 6th, was there anything wrong with that patrol 04:07:43
car? 04:07:47
A No. 04:07:48
Q As far as you knew, up until the time you 04:07:49

exited the vehicle and before the shooting, did the brakes on that Crown Victoria patrol car function properly? 04:07:56 04:08:04 04:08:08

A Yes, sir. 04:08:08

Q Did the transmission during any time that you used that vehicle that day have any problems that you can recall? 04:08:09 04:08:17 04:08:20

A No, sir. 04:08:22

Q I understand that that shift started at 3:00 p.m. 04:08:22 04:08:28

A I would say so, yes. 04:08:30

Q And by the time you got on the road it was about 3:30 p.m.? 04:08:32 04:08:34

A More than likely, yes, sir. 04:08:35

Q And you were the driver officer that night. 04:08:36

A Yes, sir. 04:08:42

Q And was there any reason why it was that you were the driver officer? 04:08:42 04:08:46

A I don't know. 04:08:48

Q And did you guys flip for it or -- 04:08:49

A No. 04:08:57

Q And obviously Mr. Urrutia, by the time June 6th, 2017 had come around, he had more experience than you; is that -- do you understand that then? 04:08:58 04:09:03 04:09:08 04:09:11

A As far as time on the job? 04:09:12
Q Yes. 04:09:15
A Yes. 04:09:16
Q And in terms of, for lack of a better word, hierarchy that night, did you recognize a hierarchy between you and Mr. Urrutia? 04:09:16 04:09:21 04:09:27
A Yes. 04:09:29
Q And what was that hierarchy? 04:09:30
A He was a P-III and I was a P-II. 04:09:33
Q What significance did that have to you? 04:09:36
MR. BRENTE: I'll just object as vague and ambiguous and overly broad. 04:09:43 04:09:45
But you can answer if you understand. 04:09:47
THE WITNESS: As far as? 04:09:49
BY MR. CASILLAS: 04:09:49
Q As far as -- 04:09:51
A -- in relation to -- 04:09:52
Q I'm sorry. Were you going to defer to him, for example, on tactics? 04:09:53 04:09:55
A I could seek his advice, but I'd have my own tactics and my own experience that I bring to the table as well. 04:09:58 04:10:03 04:10:05
Q Did you at any time from the time you left the station on June 6th until the time that you got out of the patrol car, before shooting Mr. Rivera, 04:10:06 04:10:09 04:10:14

did you and Mr. Urrutia have any conversations about tactics? 04:10:24 04:10:27

A It's a common practice usually that I do with my partners, I was the designated contact officer and he was the cover officer for the night, and we advised where different equipment was on our persons and what type of firearm we were carrying, so there was a conversation of tactics. 04:10:30 04:10:35 04:10:38 04:10:44 04:10:48 04:10:51

Q Okay. And you were the designated contact person. As far as you understood, what would be your role in contacting a suspect? 04:10:53 04:10:58 04:11:00

MR. BRENTE: So I'm just going to object. This is in general, right? 04:11:04 04:11:05

MR. CASILLAS: No, I'm talking about his role that night, what was his understanding of his role as a contact officer that night. 04:11:07 04:11:08 04:11:12

THE WITNESS: As far as a contact officer is concerned, a contact officer will deal with the public, have a conversation or conduct the investigation while the cover officer, for lack of better words, watches his back to make sure there are no threats that become -- arise to the situation. 04:11:17 04:11:19 04:11:24 04:11:27 04:11:31 04:11:34

BY MR. CASILLAS: 04:11:39

Q And other than designating -- having a conversation where -- and by the way, did you propose 04:11:39 04:11:45

that you would be contact or did he propose that? 04:11:47
A I couldn't tell you, sir. 04:11:53
Q Had you been the contact officer before? 04:11:55
A Yes. 04:11:59
Q On many occasions? 04:12:00
A Yes, sir. 04:12:01
Q Had you patrolled in a single -- in a 04:12:02
single-man unit before? 04:12:04
A Yes, sir. 04:12:06
Q Okay. There in the Wilmington area? 04:12:08
A Yes, sir. 04:12:12
Q The assignment to the -- and, again, the 04:12:14
station was which station on June 6th? 04:12:27
A That we were assigned to? 04:12:30
Q Yes. 04:12:32
A Harbor station. 04:12:33
Q Harbor. Sorry. The decision to go to 04:12:34
Harbor, was that something you sought out? 04:12:39
MR. BRENTE: His decision to work at Harbor 04:12:40
station? 04:12:43
BY MR. CASILLAS: 04:12:44
Q The decision that you go to Harbor 04:12:44
station -- 04:12:46
A Mr. Casillas, could you be more specific 04:12:48
as -- did I want to work there as a police officer 04:12:51

or -- 04:12:53
Q Yes. 04:12:53
A -- did I just want to go back to the 04:12:53
station? 04:12:56
Q I'm sorry. As I understand, at the time the 04:12:57
shooting happened, you were working as a patrol 04:13:00
officer out of the Harbor station. Yes? 04:13:04
A Yes, sir. 04:13:06
Q And you had that assignment I think for 04:13:06
about nine months, correct? 04:13:10
A At the time of the incident, it was only two 04:13:12
months, sir. 04:13:14
Q Two months. And the assignment, in other 04:13:15
words, you being a patrol officer at Harbor division, 04:13:18
was that something that you sought out? 04:13:23
A Yes. 04:13:25
Q Why? 04:13:26
A I would -- I would advise it to counsel; 04:13:30
however, it might interfere with my police officer's 04:13:35
rights as far as maybe where I live. 04:13:40
Q Okay. Are you suggesting that it's some 04:13:43
sort of confidential information? 04:13:48
A Yes. 04:13:52
Q Okay. Would you like to discuss that with 04:13:53
your attorney? 04:13:55

A I can. 04:13:57
MR. CASILLAS: Okay. Because I would like 04:13:58
to know. So we'll go off the record and let you talk 04:13:59
about it. Okay? 04:14:02
MR. BRENTE: Okay. 04:14:04
THE VIDEOGRAPHER: Off the record, 4:14. 04:14:04
(Recess taken.) 04:14:06
THE VIDEOGRAPHER: Back on the record 4:23. 04:23:16
BY MR. CASILLAS: 04:23:18
Q Any particular reason, Mr. Ramirez, why you 04:23:23
wanted to work Harbor? 04:23:27
A Closer commute to home. 04:23:28
Q Are -- you still then live in that general 04:23:30
area? 04:23:33
A I'm somewhere around there. 04:23:33
MR. BRENTE: Yeah. 04:23:35
MR. CASILLAS: Good enough. 04:23:36
BY MR. CASILLAS: 04:23:37
Q Anyway, do you remember -- Mr. Urrutia used 04:23:37
the term EVOC, but did you ever receive EVOC 04:23:58
training? 04:24:03
A In the academy, yes. 04:24:03
Q What is EVOC training just so the record is 04:24:04
clear? Emergency vehicle -- 04:24:09
A Operation course. 04:24:10

Q Operation course. Do you remember that training generally? 04:24:11 04:24:13

A For the most part, yes. 04:24:14

Q You completed it successfully? 04:24:16

A Yes, sir. 04:24:18

Q And I'm assuming that at the time of the incident you're involved with Mr. Rivera, you had a California driver's license. 04:24:19 04:24:23 04:24:24

A Yes, sir. 04:24:25

Q Had you -- and you heard Mr. Urrutia tell us that he himself had once experienced -- had an experience where he had failed to put the car -- his patrol car in park and had a runaway vehicle situation. 04:24:26 04:24:30 04:24:32 04:24:37 04:24:41

Do you remember hearing that? 04:24:41

A Yes, sir. 04:24:43

Q At any time before June 6th, 2017, had you heard that there were such incidents where a LAPD police officer in making contact with a suspect or a vehicle and failed to put it in park and had that sort of scenario where the vehicle rolled away? 04:24:43 04:24:48 04:24:56 04:25:01 04:25:05

A Yes, I have heard of that occurring on multiple occasions, however, I don't know the circumstances or the people involved. 04:25:08 04:25:10 04:25:13

Q Okay. And you knew of that circumstance or 04:25:17

those circumstances before June 6, 2017, correct? 04:25:21
A Yes, sir. 04:25:25
Q Would you agree that it is a good idea to put the car in park before you get out? And I'm not being argumentative or rhetorical, but just as a matter of police officer safety, it's important to make sure that the vehicle is secured in park before you exit it if you're the driver. Yes? 04:25:28 04:25:33 04:25:37 04:25:40 04:25:42 04:25:46
A Police officer or citizen, yes. 04:25:49
Q Okay. And why is it on important especially in a high-risk contact? 04:25:52 04:25:56
A Because the vehicle could strike possibly other pedestrians or crash into a car inadvertently doing something. 04:25:59 04:26:02 04:26:08
Q And would you also agree it creates a distraction, in other words, you move your focus to a runaway car? 04:26:08 04:26:10 04:26:15
A It can cause a distraction. I agree with that, yes. 04:26:16 04:26:18
Q Other than the incident involving Mr. Rivera where you failed to put it in park, had you done so before ever? 04:26:18 04:26:22 04:26:24
A As far as failing to put a car in park? 04:26:25
Q Yes. 04:26:27
A No, sir. 04:26:28

Q Have you done it since? 04:26:29
A No, sir. 04:26:31
Q Were you disciplined for that? 04:26:32
MR. BRENTE: Okay. So I'm going to object 04:26:33
that would call for confidential peace officer 04:26:36
personnel record information, official information 04:26:36
and violate this officer's right to privacy, so I'm 04:26:42
going to instruct him not to answer. 04:26:44
MR. CASILLAS: I propose we go off the -- we 04:26:45
go on to a confidential transcript to discuss whether 04:26:48
or not he was disciplined for failing to have put the 04:26:53
vehicle in park. 04:26:56
MR. BRENTE: And I will respectfully decline 04:26:57
your offer. 04:27:00
BY MR. CASILLAS: 04:27:00
Q Do you remember ever being told in your 04:27:20
training, any of the training you received from the 04:27:22
LAPD, that a police officer must make sure that he 04:27:24
puts his vehicle in park if he's the driver of that 04:27:30
vehicle before exiting it to contact a suspect? 04:27:33
A There are perishable skills training, such 04:27:39
as slow driving that is put on once or -- once a year 04:27:44
or every other year for every officer. At one of 04:27:47
those trainings it was advised that at the end of the 04:27:54
course, you should place the vehicle in park. 04:27:58

Q And did they emphasize the significance of not putting it in park? In other words, what would happen if you don't do it? 04:28:00 04:28:03 04:28:06

A That the vehicle would get away from you. 04:28:07

Q And, again, is that where you learned all of the possible -- you know, the safety issues, not only for the police officers, but even for the public. Yes? 04:28:09 04:28:13 04:28:15 04:28:18

A As far as for learning the fact that a runway vehicle would cause harm to someone, I would learn that when applying for my California driver's license. 04:28:18 04:28:22 04:28:25 04:28:28

Q Okay. So the LAPD didn't have to tell you that you have to put it in park, right? 04:28:28 04:28:32

A No, sir. 04:28:33

Q But nonetheless, they did emphasize that in training at some point, though, correct? 04:28:33 04:28:37

A Yes, sir. 04:28:39

Q And then just for the record, you failed to put it in park, correct? 04:28:40 04:28:44

A Are you referring to as what I perceived that night or what I know now? 04:28:47 04:28:49

Q No. I'm asking about any of your perception. 04:28:51 04:28:55

At some point after you got out of the 04:28:56

vehicle, you noticed that it was moving forward towards Eric Rivera, yes? 04:28:59 04:29:10

A Yes, sir. 04:29:12

Q And did you conclude when you saw it moving forward towards Eric Rivera that it was not -- that you had not put it in park? 04:29:13 04:29:17 04:29:20

A Yes, sir. 04:29:22

Q Now, in addition to putting it in park, do you remember that the vehicle has a pedal for the emergency brake? 04:29:24 04:29:27 04:29:32

A I am -- 04:29:33

Q Parking brake for lack of a better word. 04:29:34

A I am aware of that, sir, yes. 04:29:37

Q And so you got there -- underneath the steering wheel, you've got the accelerator, you've got the brake, and you've got the emergency brake, correct? 04:29:39 04:29:41 04:29:43 04:29:46

A Yes, sir. 04:29:46

Q Okay. And I'm assuming that, again, hundreds of times you had depressed the emergency brake on the Crown Vics that you used before June 6th, 2017 to stop the vehicle safely or to secure it before getting out. Yes? 04:29:47 04:29:53 04:29:56 04:29:59 04:30:03

MR. BRENTE: Are you talking about parking brake? 04:30:06 04:30:06

MR. CASILLAS: Yes. 04:30:08

THE WITNESS: The emergency brake or parking brake? 04:30:08 04:30:12

BY MR. CASILLAS: 04:30:12

Q Let's call it the parking brake. Okay. That pedal that's to the left of the brake pedal. 04:30:12 04:30:14

A That's only going to be the emergency pedal, sir. 04:30:19 04:30:22

Q And what is that pedal again, emergency brake? 04:30:22 04:30:24

A Emergency brake. 04:30:24

Q And is that different than the parking brake? 04:30:26 04:30:28

A Yes, sir. 04:30:28

Q And where is parking brake located? 04:30:29

A Just left of the gas pedal. 04:30:31

Q Left of the gas pedal. 04:30:33

A And it depends what country you're in. 04:30:39

Q That's true. We're not talking about France, at least today, but the -- so to make sure I understand the different pedals there on the Crown Vic, you've got the accelerator, that's the rightmost pedal. Yes? 04:30:42 04:30:44 04:30:48 04:30:52 04:30:52

A I'm sorry. Sir, could you repeat that? 04:30:55

Q The Crown Vic -- focusing on the Crown Vic 04:30:57

that you operated on June 6, 2017, three pedals below the steering wheel, yes? 04:31:00 04:31:07

A Yes, sir. 04:31:10

Q And the rightmost pedal is what? 04:31:10

A The gas pedal, sir. 04:31:12

Q And to the left of the gas pedal is what? 04:31:14

A The brake pedal. 04:31:16

Q And to the left of the brake pedal is? 04:31:17

A An emergency brake. 04:31:20

Q Do you also call the emergency brake the parking brake? 04:31:24 04:31:26

A No. 04:31:27

Q And was it your practice upon stopping the Crown Vic and putting it in park to exit the vehicle to also depress the emergency brake? 04:31:27 04:31:31 04:31:35

A From my practices, I never placed the emergency brake on to basically perform my duties. 04:31:40 04:31:45

Q So you don't press the emergency brake. You just put it in park, correct? 04:31:52 04:31:56

A I press in the brake, that as a result will allow you to put the vehicle into park as a result. 04:31:58 04:32:01

Q Okay. So you depress the brake, the regular brake, put it in park, and then exit the vehicle; that was your practice, correct? 04:32:04 04:32:07 04:32:10

A Yes, sir. 04:32:11

Q All right. Did you see the vehicle strike Eric Rivera? 04:32:12 04:32:34

A No, sir. 04:32:35

Q Was there something blocking your field of view as to Eric Rivera when the vehicle struck him? 04:32:37 04:32:40

A Yes, sir. 04:32:43

Q What was blocking your field of view? 04:32:44

A The hood, the front hood of vehicle. 04:32:46

Q Because you had attempted to jump in the vehicle to stop it, correct? 04:32:49 04:32:51

MR. BRENTE: Hold on. I'm going to just object to the form of the question. I think the question assumes that's why he couldn't see in a certain time sequence, but I don't know that you established a question. 04:32:53 04:32:55 04:32:58 04:33:00 04:33:03

BY MR. CASILLAS: 04:33:04

Q After realizing that you had a runaway vehicle, you attempted to jump back into the vehicle after shooting Eric Rivera to stop the vehicle, correct? 04:33:04 04:33:06 04:33:09 04:33:12

A Unfortunately, I couldn't jump in the vehicle. Wilmington Boulevard is at a slope, so in the middle of the lanes it's at its highest peak. As it's going towards the curb line, it slopes down and unfortunately, from -- the distance from where our 04:33:13 04:33:16 04:33:21 04:33:25 04:33:30

patrol vehicle was to Mr. Rivera's location, it was a very short distance. The vehicle was covering too much ground, so I knew I couldn't jump in the vehicle, and I didn't want it to hit him, so I tried -- the best I could do is at least try to put my foot on the brake and stop the vehicle. I could not jump back in. 04:33:31 04:33:35 04:33:38 04:33:41 04:33:46 04:33:48 04:33:51

Q Were you successful in doing that? 04:33:52

A I did hit the brake. I inadvertently hit the gas pedal as well, which caused the revving of the motor of the engine, but there was no acceleration as a result. 04:33:56 04:34:01 04:34:07 04:34:09

Q You didn't feel any acceleration? 04:34:10

A (No audible response.) 04:34:13

MR. BRENTE: You have to answer audibly. 04:34:15

THE WITNESS: Oh, I'm sorry. No, sir. 04:34:16

BY MR. CASILLAS: 04:34:17

Q Was the vehicle in, as far as you could determine, in neutral, if you know? 04:34:18 04:34:19

A From that night what I perceived is I believed it was in neutral. It's different from what I know now. 04:34:25 04:34:29 04:34:32

Q Did you later learn that it never came out of drive? 04:34:33 04:34:35

A Yes, sir. 04:34:36

Q And so if it was in drive and you depressed the accelerator, assuming that it was functioning properly, you would have expected it to have accelerated forward, correct? 04:34:39 04:34:42 04:34:45 04:34:48

MR. BRENTE: Well, I'm going to object that's incomplete hypothetical because he said he hit the brake and the gas at the same time, so that's not what he testified to, unless you just want to know in general if you hit the gas pedal on a Crown Vic if it goes forward. 04:34:50 04:34:50 04:34:53 04:34:56 04:34:58 04:35:00

BY MR. CASILLAS: 04:35:04

Q Did it appear to you that depressing the brake and the accelerator at the same time -- and you believe did you that. Yes? 04:35:04 04:35:08 04:35:11

MR. BRENTE: Okay. So I'm going to object. That night he thought that or now he thinks that? 04:35:12 04:35:14

MR. CASILLAS: That night. 04:35:16

MR. BRENTE: Okay. 04:35:17

THE WITNESS: From that night, sir, yes. 04:35:18

BY MR. CASILLAS: 04:35:19

Q And did you -- did you sense that as a result of compressing both of those pedals together at the same time, that it didn't have any effect in reducing the speed of the vehicle, correct? 04:35:20 04:35:23 04:35:26 04:35:32

A Yes, sir. 04:35:35

Q Did you feel any acceleration at all? 04:35:37
A No, sir. 04:35:41
Q It continued to move at the speed that it was moving? 04:35:42 04:35:46
A Yes. 04:35:47
Q Which was about somewhere between three and five miles an hour, correct? 04:35:47 04:35:49
MR. BRENTE: I'm going to object that calls for speculation, lacks foundation, calls for an expert opinion. 04:35:50 04:35:52 04:35:54
THE WITNESS: I couldn't tell you, sir. 04:35:54
BY MR. CASILLAS: 04:35:56
Q Can you give me an estimate? 04:35:56
A It wasn't going 20. It wasn't going zero. 04:35:58
Q Was it going somewhere between one and ten miles an hour? 04:36:04 04:36:08
A More than likely. 04:36:08
Q At some point that evening did you learn of a call involving a man with a gun? 04:36:10 04:36:26
A From the night of -- 04:36:31
Q Yes. 04:36:35
A Yes, sir. 04:36:35
Q And do you remember where you were when you heard that call come over the radio? 04:36:36 04:36:38
A I know of the general area, yes, sir. 04:36:40

Q Where was that? 04:36:42
A That was on Figueroa and around L Street and 04:36:43
possibly Robidoux. 04:36:52
Q And do you remember where that individual 04:36:53
was reported to have been when he engaged in the 04:36:55
activity that was described over the radio call? 04:37:02
A Yes, sir. 04:37:05
Q Where was that? 04:37:06
A That was at Pacific Coast Highway and 04:37:07
Wilmington Boulevard. 04:37:12
Q Okay. And was he -- at least as far as you 04:37:12
learned from the radio call, was that individual, the 04:37:14
suspect of the subject of the radio call at a 04:37:19
particular location? 04:37:23
A From the initial call it was just advised 04:37:27
that he was at Wilmington Boulevard and PCH, Pacific 04:37:33
Coast Highway. 04:37:36
Q Did you later learn that he was at one of 04:37:36
the businesses in the area? 04:37:38
MR. BRENTE: I'll just object as vague as to 04:37:39
time. I mean, that he had been somewhere that night? 04:37:41
That what -- I mean what... 04:37:50
THE WITNESS: Mr. Casillas, in relation to 04:37:50
the call, are you asking me was there further 04:37:52
comments that advised me of a possible updated 04:37:55

location? 04:37:57
BY MR. CASILLAS: 04:37:59
Q Yes. 04:37:59
A As we're approaching the scene, 04:38:00
communications are dispatched, does advise of an 04:38:02
update possible location. 04:38:05
Q And where was that location? 04:38:07
A Advised the suspect was possibly heading 04:38:10
southbound on Wilmington Boulevard towards Anaheim. 04:38:14
Q You're familiar with the location generally? 04:38:18
A The area, yes, sir. 04:38:23
MR. BRENTE: I'll just object as vague and 04:38:24
ambiguous. 04:38:24
But you can answer. 04:38:26
BY MR. CASILLAS: 04:38:26
Q And from the point where you first heard the 04:38:28
call until the time that you excited your vehicle, 04:38:30
how much distance was travelled? 04:38:35
A Sir, as far as I seen the vehicle, that's 04:38:36
when we encountered Mr. Rivera? 04:38:39
Q Yes. 04:38:42
A How much time? 04:38:44
Q Yes. 04:38:45
MR. BRENTE: I thought he said distance. 04:38:45
When you heard the radio call until you got out of 04:38:47

the police car. 04:38:51
THE WITNESS: I would say approximately one 04:38:52
to two miles. 04:38:55
BY MR. CASILLAS: 04:38:55
Q And did you request authorization to go code 04:38:57
three? 04:39:00
A No, sir. 04:39:01
Q Do you understand what code three is? 04:39:02
A Yes, sir. 04:39:04
Q And what is code three? 04:39:05
A It's an emergency response to a location. 04:39:06
Q It allows you to drive to the location in 04:39:09
the excess of the speed limit, correct? 04:39:12
A It allows us to drive to the location 04:39:16
adhering to -- to the rules of the road, however, in 04:39:20
a rapid manner. 04:39:25
Q And it allows -- authorizes you to use 04:39:26
lights and sirens, right? 04:39:30
A Yes, sir. 04:39:31
Q And although you are driving to a location 04:39:32
code three, you're still required to safely clear all 04:39:36
intersections that you go through, correct? 04:39:40
A Yes, sir. 04:39:42
Q So driving code three, you could go through 04:39:43
a red light that is controlling your direction of 04:39:45

traffic through an intersection so long as you clear the intersection, correct? 04:39:50 04:39:52

A Yes, sir. 04:39:54

Q And are you familiar with the procedure of clearing an intersection? 04:39:55 04:39:59

A There is no documentation that states a specific down to the exact rule of how to do it. 04:40:05 04:40:09

Q Yes. 04:40:12

A However, the way I perceive it and I do it is either all pedestrians and all vehicles come to a stop prior to me entering that intersection, like, cross-traffic. 04:40:12 04:40:16 04:40:21 04:40:25

Q And in going through an intersection code three, are you required to clear every lane that you traverse? 04:40:26 04:40:32 04:40:36

MR. BRENTE: I'll just object as vague and ambiguous. 04:40:37 04:40:37

You can answer if you understand. 04:40:40

THE WITNESS: You have to drive in a safe manner, so as a part of driving safely, you should clear the lane that you're moving into. 04:40:42 04:40:44 04:40:49

BY MR. CASILLAS: 04:40:53

Q And was that per your instruction or per your practice? 04:40:54 04:40:57

A Per my practice. 04:40:58

Q Did you request a code three authorization? 04:40:59
A No, sir. 04:41:07
Q Why not? 04:41:07
A Well, there's two -- two gamuts to that. My partner was the passenger officer, who is, for the most part, in charge of communications to dispatch. 04:41:09 04:41:13 04:41:16
Q Right. 04:41:18
A The other portion of that, which I would advise him not to put us in a code three situation, we're at -- the active light and sirens is due to our tactical advantage at that point. We were generally in the area, and unfortunately with lights and sirens sometimes it alerts suspects that we're coming, so it would give them the advantage to somewhat take a position of advantage of cover and wait for lie -- lie and wait for us to arrive at a location. 04:41:20 04:41:25 04:41:29 04:41:33 04:41:35 04:41:38 04:41:42 04:41:45 04:41:49
And so in that retrospect, it would give us the advantage, not -- it would be advantageous on us not to go lights and sirens. 04:41:52 04:41:56 04:42:00
Q At any time before you arrived at the location where you eventually shot Mr. Rivera, did you have any communication with the unit that the call was assigned to? 04:42:01 04:42:04 04:42:10 04:42:13
A The primary, yes, sir. 04:42:15
Q And do you remember who the officers were in 04:42:17

that unit? 04:42:20
A Yes, sir. 04:42:21
Q Who were they? 04:42:22
A This were Officer Andres Martinez and 04:42:24
Officer Marc Sternin. 04:42:29
Q And what was the nature of the conversation 04:42:31
or communications you had with them as you were in 04:42:35
route to the location? 04:42:37
A We had arrived to the location. 04:42:39
Q Right. 04:42:41
A And due to the updated comments, we were 04:42:42
going southbound Wilmington Boulevard from PCH -- 04:42:45
Q Right. 04:42:45
A -- going southbound. As we are going 04:42:49
southbound approaching I want to say Robidoux or M, 04:42:51
we see -- well, I see the prime unit 5 A25 Martinez 04:42:58
and Sternin going northbound. 04:43:05
Q On which road? 04:43:07
A On Wilmington Boulevard approaching PCH. 04:43:11
There is no stop and conversation. It's more of 04:43:12
we're going that way and they were going to -- I 04:43:18
couldn't -- I don't remember exactly what was said, 04:43:21
but I do remember from that night that I made a 04:43:22
motion that we're going to go southbound. 04:43:27
Q Did you actually stop? 04:43:30

A No. 04:43:31
Q So they're coming north. You're going 04:43:32
south. You'd already made a right turn onto 04:43:36
Wilmington, correct? 04:43:40
A Yes, sir. And -- and due to him being a 04:43:40
pedestrian -- advised he's a pedestrian and from 04:43:47
where his location was at PCH, Wilmington going 04:43:49
south, I didn't want to go at a high rate of speed, 04:43:53
so I was going at a slow rate. I was going 04:43:56
approximately five to ten miles an hour. 04:43:58
Q And were you scanning the roadway as you 04:44:00
were going south on Wilmington? 04:44:04
A I was driving in a safe manner. 04:44:07
Q Yes. 04:44:09
A And also that's why I activated my ambers to 04:44:09
alert the traffic behind us that we were going slow. 04:44:12
I was also looking for the -- actively looking for 04:44:14
the suspect. 04:44:16
Q And to look for him, what were you doing? 04:44:17
A Scanning the roadway and scanning the 04:44:19
sidewalks as well. 04:44:21
Q And were your lights on your -- I'm sorry -- 04:44:23
your headlights? 04:44:28
A My headlights were on, sir, yes. 04:44:29
Q Do you know whether or not they were 04:44:32

working? 04:44:34
A Prior to the start of the watch, I conduct a 04:44:35
vehicle check to make sure all my equipment is 04:44:39
working properly and that's my -- that's my practice. 04:44:42
I don't exactly remember if they were functioning. 04:44:46
Q Right. 04:44:49
A But that's my common practice and I wouldn't 04:44:50
take it out of the shop if they were not working. 04:44:52
Q By the time -- this shooting happened at 04:44:56
approximately what time? 04:44:58
A Approximately 2100 hours, which is 9:00 p.m. 04:44:59
Q And by then it had been dark, June, at least 04:45:05
an hour, if not an hour and a half? 04:45:09
A More than likely, sir, yes. 04:45:11
Q And in that hour to hour and a half, were 04:45:13
you on patrol? 04:45:16
A Since 3:00 in the afternoon, yes. 04:45:18
Q Did you guys break for a meal of some sort? 04:45:21
A Honestly, sir, I couldn't tell you. I don't 04:45:25
remember. 04:45:29
Q And during that hour and a half of patrol 04:45:29
and before you had the encounter with Mr. Rivera, did 04:45:40
it appear to you that your headlights worked? Maybe 04:45:42
as you approached a vehicle, you could see the 04:45:47
illumination in front you? 04:45:51

A Sir, that hour and a half of nighttime service? 04:45:54 04:45:56

Q Yeah. 04:45:56

A Yes. 04:45:56

Q And did you, in fact, as you sit here today note that your lights were working? 04:45:57 04:45:59

MR. BRENTE: I'm just going to object vague and ambiguous note that his lights were working. 04:46:01 04:46:02

You can answer if you understand. 04:46:05

THE WITNESS: Could you ask it maybe a little... 04:46:07 04:46:09

BY MR. CASILLAS: 04:46:09

Q Yeah. Did you notice that your lights -- your headlights were working? 04:46:09 04:46:13

A They were more than likely working because the roadway in front of us was illuminated. 04:46:15 04:46:18

Q And, I mean, obviously Mr. Urrutia didn't say, hey, look, our headlights are bad, anything like that, correct? 04:46:22 04:46:26 04:46:30

A No, sir. 04:46:31

Q And was it foggy that night? 04:46:31

A I'm going to have to remember from a year and a half ago. That I remember, no, I don't remember it being foggy. 04:46:37 04:46:39 04:46:44

Q In your experience, headlights on the top of 04:46:46

the vehicle you were driving easily illuminate anything in front of the vehicle within 50 feet. 04:46:50 04:46:55

Would you agree? 04:46:57

MR. BRENTE: Objection; easily illuminate 50 feet. 04:46:58 04:47:02

You can answer if you know. 04:47:02

BY MR. CASILLAS: 04:47:04

Q Assuming there's no fog. 04:47:04

A Assuming there's no fog, in perfect conditions at night, I would agree with that. 04:47:05 04:47:08

Q Did you ever deploy your head -- your high beams when confronting Mr. Rivera? 04:47:13 04:47:18

A No. 04:47:22

Q Okay. At some point before you shot him, you steered the vehicle to your right in the direction of Mr. Rivera, correct? 04:47:22 04:47:25 04:47:28

A Yes, sir. 04:47:31

Q Did you deploy -- did you use your spotlight? 04:47:32 04:47:36

A I did activate my spotlights prior to arriving to that location. 04:47:36 04:47:40

Q Right. 04:47:41

A But it was only a momentary turn on, turn off, and it was off when we encountered Mr. Rivera. 04:47:42 04:47:47

Q And did you know, by the way, that a 04:47:50

spotlight can be used tactically? 04:47:52
A Yes. 04:47:54
Q Okay. And have you been trained to use a spotlight tactically? 04:47:54 04:47:56
MR. BRENTE: Objection; vague and ambiguous. 04:47:59
But you can answer if you understand it. 04:48:00
THE WITNESS: In the academy we were taught that we could use the headlight as a distraction tool, for the most part, on vehicle stops. 04:48:01 04:48:03 04:48:06
BY MR. CASILLAS: 04:48:10
Q And the headlight, you mean the spotlight? 04:48:11
A I'm sorry, sir. The spotlight. 04:48:13
Q Has it been your experience when -- and have you yourself used a spotlight against a pedestrian? 04:48:16 04:48:19
A I've used my flashlight, but headlight, I -- I don't think I have. 04:48:23 04:48:36
Q Spotlight you mean? 04:48:37
A Flashlight -- spotlight, yes. 04:48:39
Q And your training with respect to the use of a spotlight on a vehicle, what is the purpose of using the spotlight in a vehicle stopped at night? 04:48:42 04:48:45 04:48:49
A As far as our tactics are concerned, we eliminate the rearview mirror and some of the side mirrors of the vehicle, this way the person inside the vehicle can't see us walking up on their vehicle 04:48:53 04:48:57 04:49:02 04:49:04

without them turning around. 04:49:07
Q The bright light conceals your position, 04:49:08
yes. 04:49:13
A Yes, sir. 04:49:14
MR. BRENTE: Okay. Object to the form of 04:49:15
the question, but go on. 04:49:17
BY MR. CASILLAS: 04:49:23
Q Other than the headlights, were there any 04:49:23
other lights from the vehicle that illuminated any 04:49:27
part of the front part of the vehicle? 04:49:30
A There are running lights, but they don't 04:49:33
illuminate more than maybe a couple inches away from 04:49:38
the vehicle, so it would only be the headlights. 04:49:42
Q The light bar on top of the vehicle, were 04:49:44
any of the lights on it ignited -- 04:49:48
A The light -- 04:49:52
Q -- with them on? 04:49:53
A The light bar was on, but it was only the 04:49:54
rear facing amber lights; that would not illuminate 04:49:57
anything to the front, only to the rear. 04:50:00
Q Do you know if Mr. Urrutia used his 04:50:04
spotlight? 04:50:08
A In that sense, Mr. Casillas, are you asking 04:50:10
from that night what I knew or what I know now. 04:50:13
Q I'm going to assume what you know now might 04:50:17

be more accurate. 04:50:20

Do you know that he used his spotlight that night? 04:50:21 04:50:24

A As far as knowing now? 04:50:24

Q Yes. 04:50:25

A Yes, sir. It was not on. 04:50:26

Q And did you believe that he had used it that night? 04:50:28 04:50:30

A I'm not sure, sir. 04:50:30

Q At some point -- and, again, in the chronology of the events, you make the right turn onto Wilmington, you're going south, you're travelling slowly as I think you've described. Yes? 04:50:34 04:50:42 04:50:44 04:50:48

A Yes, sir. 04:50:50

Q I think you said sometime -- somewhere between -- was it five and ten miles an hour? 04:50:51 04:50:52 04:50:55

A Five to ten miles an hour, yes, sir. 04:50:55

Q Okay. As you were doing so -- and when was it that you reduced your speed to that speed as you proceeded south? 04:50:57 04:50:58 04:51:01

A Immediately as I turned onto Wilmington Boulevard from PCH. 04:51:03 04:51:06

Q At any time before you got onto Wilmington going south, did you stop to check the intersection 04:51:07 04:51:13

for the suspect? 04:51:17
A As far as stop and check, are you referring 04:51:21
to stopping the vehicle, exiting the vehicle, 04:51:24
searching the area or just stopping the vehicle 04:51:27
and -- 04:51:28
Q Stopping the vehicle and making observations 04:51:28
to see if the suspect, as it had been previously 04:51:31
reported, was still at the intersection? 04:51:35
A I don't believe I stopped. I believe that 04:51:38
we were going a slow rate of speed because we were in 04:51:41
the area, which he might be at any one of those 04:51:44
locations at that point, so I wouldn't be going fast. 04:51:47
So going at a slow rate, I could accurately 04:51:51
scan and look for the suspect as I'm driving, so with 04:51:55
the necessity to stop, I don't think I needed to 04:51:58
stop. 04:52:01
Q And I'm assuming that based on the 04:52:02
information that you received, that you took this 04:52:08
suspect to be dangerous? 04:52:10
A Any person with a firearm, absolutely, yes. 04:52:13
Q And as a result of that, did you yourself 04:52:16
want to make sure that you were surveying the area in 04:52:19
front of you very carefully? 04:52:27
A Well, searching for the suspect, yes. 04:52:32
Q And did you look, for example, if maybe he 04:52:34

was crouched down behind a vehicle? 04:52:41
A Could you be more specific? 04:52:45
Q Yeah. At any time -- I guess what I'm trying to find out is, other than looking carefully, I mean, did you look near vehicles, maybe look at bushes, things like that, actually look at the geography at any places where the suspect maybe hiding? 04:52:47 04:52:49 04:52:52 04:52:55 04:52:59 04:53:02
MR. BRENTE: Are you talking about while he's driving in the police car or are you asking him if he got out and walked around? 04:53:02 04:53:04 04:53:06
BY MR. CASILLAS: 04:53:08
Q No, I'm asking as you're driving. You told me you're going slowly. You're scanning. You're looking around for the suspect. 04:53:08 04:53:08 04:53:10
More specifically my question is, what were you doing in that process of looking for the suspect? 04:53:11 04:53:13
A More specifically, what was it at the original call location or as I'm driving on Wilmington Boulevard? 04:53:16 04:53:21 04:53:24
Q As you're driving slowly at that point where you reduced your speed and were now scanning. 04:53:25 04:53:27
A I was scanning to my left and to my right. Obviously I can't see through vehicles, so I couldn't see if he was crouched down behind a vehicle, but we 04:53:30 04:53:34 04:53:38

were actively searching, me and my partner. 04:53:42
Q And you yourself -- and not to speak for 04:53:44
Mr. Urrutia -- what were you doing as part of that 04:53:46
active looking? 04:53:50
MR. BRENTE: It's been asked and answered I 04:53:52
don't know how many times. There's some answer 04:53:54
you're looking for, but I don't know what it is, 04:53:57
but -- I don't know how he can tell you any more than 04:53:59
what he's already told you. 04:54:02
BY MR. CASILLAS: 04:54:04
Q Can you give me your definition of actively 04:54:04
looking? 04:54:07
A Just using my eyes to search, looking left, 04:54:07
looking straight, looking right, even the quick 04:54:11
glance over my shoulder on my left outside my window 04:54:15
searching for a person that maybe matches the 04:54:19
description of the call. 04:54:23
Q Do you remember seeing a guy walking his dog 04:54:24
along the west sidewalk about 30 feet behind 04:54:28
Mr. Rivera? 04:54:40
A I did not see that. 04:54:42
Q All right. Did you later learn that, in 04:54:44
fact, there was somebody walking his dog behind 04:54:46
Mr. Rivera at the time of shooting? 04:54:50
A No, sir. 04:54:54

Q Today is the first time you heard about it? 04:54:54
A Yes, sir. 04:55:02
Q Do you know that there was an individual that was walking his dog behind Mr. Rivera that actually saw the shooting? 04:55:02 04:55:06 04:55:09
MR. BRENTE: So I'm going to object. So he can't answer that question because you're not a witness who's testifying. 04:55:11 04:55:12 04:55:15
So you can ask him if he's ever heard anything about that, but you can't ask a question that states it as a fact and just ask him, do you know about that fact? Because you're not a fact witness, so he's not going to answer a question that's phrased like that. 04:55:15 04:55:18 04:55:23 04:55:24 04:55:26 04:55:28
MR. CASILLAS: We're actually at the end of the video, and with everybody's okay, we'll go off the record and let him switch it. 04:55:28 04:55:30 04:55:33
MR. BRENTE: And it is 4:55, so... 04:55:35
MR. CASILLAS: We're working it. 04:55:40
MR. BRENTE: Well, do you have an estimate and then I can -- 04:55:41 04:55:44
MR. CASILLAS: As you can tell, we're moving chronologically. We're almost at the shooting. I hope that you would perceive that we're near the end. 04:55:45 04:55:49 04:55:51
MR. BRENTE: I don't know what that means. 04:55:53

MR. CASILLAS: I agree, that word perception is a funny word. 04:55:55 04:55:57

MR. BRENTE: Well -- 04:55:58

THE WITNESS: Interesting word. 04:56:01

MR. CASILLAS: Yeah, it is. I'm telling you we're near the end. 04:56:02 04:56:04

MR. BRENTE: Okay. Then you're telling me to make a decision about when we leave. 04:56:05 04:56:06

MR. CASILLAS: Okay. 04:56:09

MR. BRENTE: So I guess that's what you're trying to say. I'll take that -- 04:56:09 04:56:10

MR. CASILLAS: I'm telling you that we're near the end. 04:56:12 04:56:13

MR. BRENTE: -- invitation. 04:56:14

THE VIDEOGRAPHER: This is the end of DVD No. 1. We are going off the record. The time is 4:56. 04:56:15 04:56:18 04:56:21

(Recess taken.) 04:56:22

THE VIDEOGRAPHER: This is the start of DVD No. 3. We are back -- excuse me -- No. 2. We are back on the record. The time is 5:02. 05:02:45 05:02:48 05:02:50

BY MR. CASILLAS: 05:02:52

Q Mr. Ramirez, at some point do you spot the individual that you later learned was Mr. Rivera? 05:03:04 05:03:09

A Yes, sir. 05:03:12

Q Okay. And were you still in your patrol car when you first spotted him? 05:03:13 05:03:16

A Yes, sir. 05:03:18

Q Was he on the sidewalk? 05:03:18

A He was on the west sidewalk, yes. 05:03:20

Q Okay. Was he walking? 05:03:22

A Yes, sir. 05:03:24

Q And do you remember making observations as to how he was dressed? 05:03:24 05:03:28

A When I first observed him, he was behind in the -- he was on the sidewalk walking, but the vehicle was covering his body, so I couldn't see exactly what he was wearing, but I could see that he had a black shirt or sweater and he had a black hat. 05:03:31 05:03:37 05:03:39 05:03:43 05:03:46

Q And was it a cap, do you recall? 05:03:51

A A baseball cap. 05:03:54

Q Do you remember if it had any insignia on it? 05:03:55 05:03:59

A No, sir, I could only see the side, so as far as the side is concerned, I couldn't see. 05:03:59 05:04:03

Q And he was walking southbound? 05:04:05

A Yes. 05:04:20

Q Facing southbound? 05:04:21

A Yes. 05:04:23

Q And when you first saw him, was he -- when 05:04:23

you first saw him, had your vehicle come to a stop yet? 05:04:32 05:04:35

A No, sir. 05:04:36

Q And were you still travelling, then, at that five to ten mile an hour speed? 05:04:36 05:04:41

A I was more than likely slowing down. 05:04:44

Q Because you had seen him? 05:04:46

A Yes, sir. 05:04:48

Q And you were slowing down to make contact with him? 05:04:48 05:04:55

A Yes, sir. 05:04:56

Q Did you consider that circumstance a felony stop? 05:04:57 05:05:02

A As far as a pedestrian is concerned, there is no felony stop, as far as a pedestrian per our LAPD manual. 05:05:03 05:05:06 05:05:10

Q What do you mean by that? 05:05:11

A A felony stop is only for a vehicle. Due to the tactics from the felony stop of a vehicle, we can use that for other things. 05:05:12 05:05:15 05:05:19

Q Okay. 05:05:20

A And in this regard we can use it. I could take tactics -- 05:05:21 05:05:23

MR. BRENTE: Hang on. He wasn't done with his answer. 05:05:29 05:05:31

THE WITNESS: I was allowing you. 05:05:31
BY MR. CASILLAS: 05:05:32
Q Thank you. 05:05:32
A So as a result, we can take tactics that we use from the felony stop of a vehicle and apply certain aspects to a pedestrian stop, but per our manual, there is no felony stop of a pedestrian. 05:05:33 05:05:36 05:05:39 05:05:44
MR. BRENTE: So I need just to make something for the record for someone viewing the video. So Officer Ramirez began his answer. Your client Mr. Malik walked in and was whispering something to you, so Officer Ramirez paused his response out of courtesy to allow you to converse with your client and then he resumed his answer. 05:05:47 05:05:49 05:05:50 05:05:53 05:05:57 05:06:00 05:06:02
MR. CASILLAS: So stipulated. 05:06:06
BY MR. CASILLAS: 05:06:08
Q Mr. Ramirez, do you remember how far north your patrol car was of Mr. Rivera when you first noticed him? 05:06:10 05:06:20 05:06:27
A Sir, our vehicle was not -- I'm sorry. Strike that. 05:06:29 05:06:32
Our vehicle was -- in relation to the front bumper or from where we were seated in the vehicle? 05:06:33 05:06:40
Q Let's use the plane of the front bumper, the front of the car. 05:06:44 05:06:48

A From where it appeared to be, it seemed like it he was five to ten feet in front of that, but on the sidewalk on the west side. 05:06:49 05:06:51 05:06:55

Q All right. And do you remember there being a red pickup truck to your right? 05:06:56 05:06:58

A Yes, sir. 05:07:01

Q Okay. And was he at or near that red pickup truck when you first saw him? 05:07:02 05:07:06

A I'm not sure, sir. 05:07:17

Q When you first -- do you remember driving up to him and being parallel with him, in other words, that he was directly west of you? 05:07:18 05:07:23 05:07:26

MR. BRENTE: I'm just going to object to the form of the question, driving up to him. I don't know that he testified to that. 05:07:27 05:07:29 05:07:32

BY MR. CASILLAS: 05:07:33

Q As you approached him traveling southbound on Wilmington, that at some point you drive -- did you reach a position where he was directly west of you? 05:07:33 05:07:37 05:07:43 05:07:46

A He was almost parallel -- 05:07:48

Q Yeah. 05:07:50

A -- but he was about maybe five feet south of my bumper. 05:07:50 05:07:57

Q Did you ever -- 05:07:57

MR. CASILLAS: Do you mind if we take a quick break? It's personal call. 05:08:09 05:08:10

MR. BRENTE: No, I don't mind. 05:08:13

MR. CASILLAS: We'll go off the record. Thank you. I appreciate it. 05:08:14 05:08:19

THE VIDEOGRAPHER: Off the record, 5:08. 05:08:19

(Recess taken.) 05:08:21

THE VIDEOGRAPHER: Back on the record, 5:09. 05:09:20

BY MR. CASILLAS: 05:09:22

Q I understand I'm taking a quick tangent here. The statement you gave to FID was recorded. 05:09:59 05:10:01

Do you remember it being recorded? 05:10:07

A For audio, yes. 05:10:09

Q Do you ever -- did you ever listen to the audio before you came here to your deposition? 05:10:11 05:10:13

A No, sir. 05:10:15

Q Have you ever listened to the audio? 05:10:15

A No, sir. 05:10:17

Q Okay. Returning to the night of the shooting, do you remember Mr. Rivera ever being directly parallel to you as you were driving south on Wilmington? 05:10:17 05:10:23 05:10:39 05:10:49

A In my FID statement after reviewing it -- 05:10:52

Q Yes. 05:10:55

A -- I did say -- 05:10:56

MR. BRENTE: Hang on. You can't talk about FID unless we're under seal. 05:10:56 05:10:58

BY MR. CASILLAS: 05:11:01

Q As you sit here today, do you remember reviewing -- do you remember Mr. Rivera being directly to the right of you, in other words, directly west of you? 05:11:01 05:11:02 05:11:10 05:11:15

A I would have to answer that due to my FID statement. 05:11:17 05:11:23

MR. CASILLAS: Okay. We'll go off -- we'll go on to a confidential section of the record here. 05:11:23 05:11:26

MR. BRENTE: Okay 05:11:30

BY MR. CASILLAS: 05:11:31

Q Do you remember Mr. Rivera ever being directly to your right, in other words, you actually driving south such that he is directly west of you? 05:11:33 05:11:36 05:11:40

A When I reviewed my FID statement, I said he's parallel. And usually when I refer to parallel, that means he's left or right, but in conjunction with our location. 05:11:45 05:11:49 05:11:52 05:11:56

Q Right. 05:11:57

A So more than likely. 05:12:01

MR. CASILLAS: Okay. All right. Well, the confidential section... 05:12:02 05:12:08

MS. REPORTER: Wait. In or out? 05:12:15

MR. CASILLAS: Out. 05:12:15

MR. BRENTE: Yes. 05:12:16

(Whereupon counsel agree to go off the confidential portion of the transcript.)

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BY MR. CASILLAS:

Q Can you describe what's depicted in that photograph? 05:17:26 05:17:28

A It looks like a LAPD black and white Crown Victoria, Ford Crown Victoria. Since I know the area, it's facing, it looks like, southwest, semi-southwest, more facing south between No. 1 and 2 lane going southbound on Wilmington Boulevard. 05:17:29 05:17:35 05:17:39 05:17:46 05:17:51

Q And do you remember the vehicle being -- your vehicle being pointed similarly as depicted in this photograph when you got out of the vehicle? 05:17:54 05:17:57 05:18:00

A From that night -- 05:18:03

Q Yes. 05:18:06

A -- I perceive that the vehicle was more oriented towards his direction. It was more -- 05:18:06 05:18:10

Q Towards the west? 05:18:13

A -- west. 05:18:14

Q And so to the extent that that photograph attempts to depict where your vehicle stopped, it's not accurate, correct? 05:18:16 05:18:20 05:18:23

A From what I perceived from that night, it would be maybe a little more facing west. 05:18:25 05:18:30

Q Pointed directly at Mr. Rivera, correct? 05:18:33

A Yes, sir. From what I perceived that night, yes. 05:18:39 05:18:41

Q And so you remember seeing Mr. Rivera through your windshield before you got out of the vehicle? 05:18:41 05:18:47 05:18:52

A Yes, sir. 05:18:52

Q Okay. And, again, looking at the photograph there No. 17, is that the position at least that Mr. Rivera was approximately standing? 05:18:53 05:18:55 05:18:59

A It appears to be, yes, sir. 05:19:04

Q And, again, the vehicle was pointed directly at him such that you could see Mr. Rivera head on through your windshield, correct? 05:19:05 05:19:08 05:19:13

A Yes, sir. 05:19:15

Q And when you looked at him through your windshield, did you see the front part of his body? 05:19:16 05:19:19

A In an overall or when I first observed him, second and third? 05:19:23 05:19:29

Q We'll do chronologically in a second. 05:19:31

But as you were getting out your vehicle, it's pointing directly at him and he is facing the front part of the vehicle, correct? 05:19:34 05:19:38 05:19:39

A As I'm exiting the vehicle he -- from that night, he was walking southbound, stopped, looked over his right shoulder, continued making a clockwise rotation like a pivot. He raised a black semi-automatic handgun from the muzzle down position 05:19:41 05:19:48 05:19:54 05:19:59 05:20:05

from the muzzle pointed towards the ground, and as he was pivoting, turning, he was raising that black semi-automatic handgun towards the hood of our vehicle. At which point, I was going to shoot through the windshield because he's an eminent threat at that point, but as I'm coming up on target to shoot through the windshield, he simultaneously lowers the firearm and is no longer an eminent threat, at which point I stepped out of the vehicle, but at that point, he was still in a pivoting motion. 05:20:07 05:20:12 05:20:15 05:20:19 05:20:27 05:20:31 05:20:34 05:20:37 05:20:40 05:20:44

Q In a clockwise direction, yes? 05:20:49

A Yes. 05:20:52

Q And that means to his right, correct? 05:20:53

A Yes, sir. 05:20:55

Q Do you mind if I take a quick look at the Exhibit 17? In that photograph do you see the building that's immediately west of where Mr. Rivera was standing? 05:20:56 05:21:09 05:21:16 05:21:19

A Yes, sir. 05:21:20

Q Do you see that there's a light above the location where Mr. Rivera is standing? 05:21:21 05:21:26

A Yes, sir, there is a light. 05:21:29

Q Okay. Do you remember that light being on at the time of the encounter with Mr. Rivera? 05:21:31 05:21:33

A No, sir. 05:21:35

Q Do you not remember it being illuminated or is it that you remember it being off? 05:21:36 05:21:41

A I remember it to be off. 05:21:42

Q Okay. And have you looked at any of the photographs from that night? I'm sorry. That's a horrible question. 05:21:44 05:21:46 05:21:53

Have you ever seen any of the photographs that were taken at the location of the shooting that depict the building that was to the west of Mr. Rivera? 05:21:54 05:21:55 05:22:00 05:22:04

A Unfortunately, sir, I don't remember. I remember it more from my body worn video. 05:22:05 05:22:09

Q Okay. And also looking at Exhibit No. 17, do you see that there is a streetlight north of where Mr. Rivera is standing? 05:22:12 05:22:16 05:22:19

A Yes, sir. 05:22:22

Q Okay. And do you remember that streetlight being there present at the time of the incident? 05:22:23 05:22:26

A The streetlight was there, but it has been altered. It's -- the light has been changed. 05:22:29 05:22:33

Q At the time of the incident, was the streetlight working as far as you could tell? 05:22:36 05:22:39

A Yes, sir. 05:22:42

Q Was it on? 05:22:42

A Yes, sir. 05:22:44

Q There's -- in Exhibit No. 17 there in front of you, there appears to be a light fixture, a light bar, fluorescent light bar in the carport area. Do you see that? 05:22:44 05:22:53 05:22:58 05:23:03

A Yes, sir. 05:23:04

Q Do you remember seeing that light at the time of the shooting? 05:23:05 05:23:10

A Honestly, I'm not sure. 05:23:11

Q Now, looking at Exhibit No. 17, it appears that the vehicle straddles lane No. 1 and lane No. 2. Is that a fair description of how the vehicle is stopped? 05:23:16 05:23:19 05:23:25 05:23:28

A Yes. In the photo, yes. 05:23:29

Q In the photo, yes. 05:23:32

And when you -- your vehicle came to a stop, initially before you left the vehicle, do you remember if it was stopped straddling lane No. 1 and lane No. 2? 05:23:35 05:23:41 05:23:45 05:23:52

A Yes, sir, it was. 05:23:52

Q And when you initially approached Mr. Rivera, were you in lane No. 1 or lane No. 2? 05:23:53 05:23:57

A Sir, as far as approached, do you mean our vehicle moving towards him or to what effect, sir? 05:24:01 05:24:05

Q You're right. That's a vague question. Let me rephrase it this way. 05:24:10 05:24:12

When you turned onto Wilmington going southbound, were you in the No. 1 lane, the lane nearest the middle or the No. 2 lane, the lane nearest the parked vehicles? 05:24:15 05:24:23 05:24:30 05:24:33

A The No. 1 lane, sir. 05:24:34

Q And until you turned that vehicle to the right to point the vehicle at Mr. Rivera, did you remain in the No. 1 lane, the lane closes to the middle? 05:24:37 05:24:39 05:24:44 05:24:47

A For the duration from when I turned on Wilmington from PCH to the time that we made contact with Mr. Rivera, I was in the No. 1 lane the whole time. 05:24:47 05:24:50 05:24:53 05:24:57

Q Okay. And was that for a specific purpose? 05:24:57

A Yes, sir. 05:24:59

Q And what was that purpose? 05:24:59

A So I could have more field of view. If I'm closer to the middle, I could more assess what's on my left being more -- a little more towards the middle than to the far right. Being the far right, I would have to turn my head a little harder just to look off to my left. 05:25:01 05:25:05 05:25:08 05:25:11 05:25:15 05:25:21

Q I gave you a wider field of view -- strike that. 05:25:23 05:25:33

Were you present today when Mr. Urrutia 05:25:36

described Mr. Rivera as having an angry look on his face? 05:25:40 05:25:50

A Yes, I was here present for that. 05:25:50

Q And do you remember that he also said that his expression was deliberate? 05:25:53 05:25:57

MR. BRENTE: I think he said determined. 05:25:59

MR. CASILLAS: Determined. 05:26:01

BY MR. CASILLAS: 05:26:01

Q Do you remember him saying that? 05:26:02

A Yes, sir. 05:26:04

Q Okay. Do you also make a similar conclusion? 05:26:04 05:26:07

A From the time that I saw him pivoting, I really couldn't make a determination what his face -- his facial expressions were doing, if he was grimacing or he had eyes closed, I couldn't tell. 05:26:08 05:26:14 05:26:17 05:26:20

I was more focused on the firearm that he was bringing up with his left hand. I was more focused on that than his facial expressions. 05:26:24 05:26:29 05:26:31

Q I think it was -- it's your account of the incident that Mr. Rivera always had something in his left hand, correct? 05:26:34 05:26:40 05:26:48

A Yes, sir. 05:26:49

Q Did you ever see him move anything from his left hand to his right hand? 05:26:50 05:26:53

A No, sir. 05:26:55
Q Did you ever see Mr. Rivera take his right 05:26:56
hand and motion with it in an upward fashion such 05:27:01
that there was close to an 90-degree bend in his 05:27:06
elbow? 05:27:10
A With his right arm? 05:27:11
Q Yes. 05:27:11
A No, sir. 05:27:14
Q Before Mr. Rivera came to a stop and 05:27:14
pivoted, do you remember him saying anything? 05:27:22
A From my FID statement -- 05:27:29
MR. BRENTE: If you want to talk about FID, 05:27:34
you're going to have to go under seal. 05:27:36
BY MR. CASILLAS: 05:27:37
Q I don't want to talk about your FID 05:27:38
statement. 05:27:40
But as you sit here today and thinking about 05:27:41
your observations, both visual and auditory, from 05:27:43
your contact with Mr. Rivera, do you remember him 05:27:46
saying something? 05:27:49
MR. BRENTE: So if your answer is by -- at 05:27:50
FID I remember this and now I remember that, then 05:27:53
we'll have to go under seal. 05:27:56
THE WITNESS: From what I know now is 05:27:59
different from at the time of the incident. 05:28:01

However, from that night of the incident, I could hear yelling coming from Mr. Rivera's location from where he was standing. 05:28:05 05:28:08 05:28:12

BY MR. CASILLAS: 05:28:14

Q And could you make out what he was saying? 05:28:14

A I remember that, what I said, due to my FID statement. 05:28:18 05:28:22

Q Okay. Without relying on your FID statement, do you remember him -- do you remember making out what it was that Mr. Rivera said? 05:28:22 05:28:25 05:28:28

A He did use the F word. 05:28:34

Q And other than using the F word, do you remember what context he used it? 05:28:36 05:28:41

A No, sir. 05:28:43

Q Do you remember what it was that he said? 05:28:43

A I remember he used the F word, but I remember the phrase that I perceived that night and due to my FID statement. 05:28:48 05:28:52 05:28:55

Q So as you sit here today, you don't have an independent recollection of it, correct? 05:28:56 05:29:00

A From that night? 05:29:02

Q Yes. 05:29:03

A Correct. 05:29:04

Q Looking at Exhibit No. 17 there in front of you, was -- when you first encountered -- sorry -- 05:29:05 05:29:29

when you first saw Mr. Rivera, was he north or south of the light pole near the black vehicle? 05:29:39 05:29:47

A From the photo, it doesn't show a black vehicle. All it shows is our black and white in between the No. 1 and 2 lane, but from that night -- 05:29:54 05:29:57 05:30:00

Q Yes. 05:30:03

A -- I remember him being just south of the light pole. 05:30:03 05:30:07

Q Approximately how many feet, your best estimate? 05:30:09 05:30:12

MR. BRENTE: Don't guess. If you can give him an estimate, give him one. 05:30:12 05:30:14

THE WITNESS: I'll have to estimate five to ten feet. 05:30:18 05:30:20

BY MR. CASILLAS: 05:30:20

Q Okay. Was he walking fast or slow, if you could attribute any sort of speed to it? 05:30:21 05:30:25

A I couldn't, sir. 05:30:27

Q And from the time that you saw him until the time he stopped, how much distance did he travel? 05:30:28 05:30:33

A I could only give you a best estimate. 05:30:37

Q What is that? 05:30:39

A It appeared that he covered about 40 feet -- approximately 40 feet. It could be 30 to 40. 05:30:40 05:30:45

Q Start to finish, then, from the time you saw 05:30:49

him until the time you shot at him, he traveled approximately 40 feet. Yes? 05:30:51 05:30:55

A 30 to 40 feet. 05:30:57

Q 30 to 40 feet. Did he ever run? 05:30:58

A Not that I observed, sir, no. 05:31:02

Q Did he ever walk in a way that you would consider hurried or fast? 05:31:05 05:31:07

A Unfortunately, I really didn't see too much of his walking motions, no. 05:31:13 05:31:16

Q Now, from the time that you saw him initially a few feet south of the light pole until the time he stopped and turned around, did you see -- did you look to see if he had anything in his hands? 05:31:18 05:31:25 05:31:28 05:31:33

A From the first -- when I first observed him, I couldn't see his hands. I could only see because the vehicles were blocking my view, also my eyes were obstructed. I couldn't see. 05:31:36 05:31:40 05:31:43 05:31:48

Q Again by what? 05:31:49

A A vehicle. 05:31:50

MR. BRENTE: Parked vehicle. 05:31:52

THE WITNESS: Parked vehicle that was along the curb line, so I could only see what he was wearing from maybe the shoulder up. 05:31:53 05:31:55 05:31:57

BY MR. CASILLAS: 05:31:59

Q And at what point was it that you were -- 05:31:59

where was he when you could first see his hands? 05:32:03
A Where he is depicted in the photo. 05:32:08
Q Okay. So it was at the point that he 05:32:11
stopped that you could first see his hands? 05:32:14
A Yes, sir. 05:32:16
Q Where was that vehicle parked? 05:32:17
A It was illegally parked. 05:32:21
Q I'm sorry. 05:32:23
A It was illegally parked -- 05:32:23
Q Illegally parked. 05:32:26
A -- in the driveway. 05:32:28
Q Did it block Mr. -- was it parked on the 05:32:30
street blocking the driveway, is that what you're 05:32:35
saying? 05:32:37
A Yes, sir. 05:32:38
Q Facing southbound? 05:32:38
A Yes, sir. 05:32:39
Q Do you remember that that vehicle was a red 05:32:40
vehicle? 05:32:42
A Yes, sir. 05:32:42
Q Pickup truck? 05:32:43
A A red truck. 05:32:44
Q Did you see Mr. Rivera come to a stop as he 05:32:45
was travelling south? 05:32:56
A When I observed the pivot, that's when I 05:32:57

observed him stopped. 05:32:59
Q And before he began his pivot, could you see 05:33:01
his hands? 05:33:07
A I don't recall seeing his hands at that 05:33:09
point. 05:33:11
Q Now, obviously you knew that the call was of 05:33:11
man with a gun, yes? 05:33:16
A Yes, sir. 05:33:18
Q And usually in your experience is that 05:33:19
people carry guns in their hands? 05:33:22
A Yes, sir. 05:33:24
Q Okay. Did you look to see if there was 05:33:25
anything in his left hand when you first saw him and 05:33:27
were able to see him begin his pivot? 05:33:30
A When he initially stopped, I did not see his 05:33:33
hands. Now, it could have been that he was -- had 05:33:38
his hands in front of him. I couldn't tell, but I 05:33:41
couldn't see his hands. 05:33:44
As he began his pivot and was continuing it, 05:33:46
that is the moment where I could see his hands and 05:33:50
that he had a semi-automatic handgun in his left 05:33:53
hand. 05:33:57
Q In his left hand? 05:33:57
A That's correct, sir. 05:33:59
Q So to make sure that I understand it -- and 05:34:00

you never saw him move it to his right hand, correct? 05:34:06
A Correct, sir. 05:34:09
Q And his left hand as he was facing south 05:34:10
would have been on the street side of him, correct? 05:34:14
A Correct, sir. 05:34:18
Q At no point did you see his left hand before 05:34:19
he began to pivot, correct? 05:34:24
A Correct, sir. 05:34:27
Q And the pivot that you describe is a 05:34:27
complete turning motion facing south, turning all the 05:34:30
way around to his right or counterclockwise such that 05:34:35
he is facing the patrol car, correct? 05:34:40
A That would be clockwise, sir. 05:34:41
Q Clockwise, yes. All the way around to his 05:34:43
right clockwise such that he's eventually facing the 05:34:47
patrol car, yes? 05:34:50
A I did not see him complete the turn. I saw 05:34:52
him -- as he was pivoting, he's raising the handgun 05:34:59
towards the direction of our hood coming around, so I 05:35:04
never observed the followthrough. 05:35:09
Q And can you demonstrate that movement that 05:35:12
you're describing verbally? If you could stand up 05:35:16
and show us how. What it was that you perceived him 05:35:19
doing? 05:35:22
A Would you like me to say it verbally first 05:35:22

or demonstrate first? 05:35:24
Q Demonstrate first. 05:35:26
A So let's say I'm Mr. Rivera. 05:35:29
Q Yeah. 05:35:33
A And. 05:35:34
Q And does he eventually face you directly? 05:35:39
A Can I sit back down? 05:35:42
Q Yes, please. 05:35:44
A He does face us. 05:35:45
Q Yes. 05:35:50
A But I see that as I stepped out of the vehicle. 05:35:51 05:35:53
Q And when he's facing you, is he still crouched down as you described? 05:35:54 05:35:57
A I never said he was crouched down. As he's turning, that's when he was raising it; that's when I was going to shoot through the windshield. He begins lowering it. He hasn't completed his turn. I step out of the vehicle. I look away from his position to make sure traffic -- traffic conditions. When I look back at Mr. Rivera, he's now facing our -- our vehicle, his feet are positioned facing our vehicle. 05:36:00 05:36:05 05:36:09 05:36:12 05:36:15 05:36:17 05:36:22 05:36:28
Q And is he standing perpendicular and straight up? 05:36:32 05:36:35
A Like perfect posture, you mean? 05:36:37

Q Describe it however you can. 05:36:39
A He's standing upright. 05:36:41
Q And do you see him bent at the waist at all? 05:36:43
A No, sir. 05:36:47
Q And that the point when you get, again, a view of him, do you see anything in his right hand? 05:36:48 05:36:53
A In his right hand, no, sir. 05:36:58
Q And is his right hand at his side? 05:36:59
A I don't remember, sir. 05:37:04
Q And do you see his left hand? 05:37:05
A Yes, sir. 05:37:08
Q And at that point how was he holding his left hand, if you would describe it? 05:37:08 05:37:11
A His left hand was down to his side, the muzzle pointing down towards the ground; that's when I gave a verbal command. 05:37:15 05:37:18 05:37:21
Q And could you demonstrate how he was holding his left hand when you gave the verbal command? 05:37:24 05:37:26
A At the start -- do you want me to stand up? 05:37:30
Q Yes, please. 05:37:34
A At the start of my verbal command, he has it to his side, muzzle pointed down. 05:37:35 05:37:38
Q Left hand? 05:37:39
A Left hand, sir. 05:37:40
Q And what was the command that you issued? 05:37:41

A It was, hey, drop it. 05:37:46
Q Did you repeat it more than once? 05:37:48
A No, sir. Could I sit down? 05:37:51
Q Sit down. Did you -- other than, hey, drop it, did you say anything else before you shot? 05:37:53 05:37:57
A Unfortunately, Mr. Rivera didn't give me the time to. 05:38:01 05:38:04
Q Okay. Did you see Mr. Rivera at any time before you shot after he had made that revolution that you described, that turn, did you ever see him raise his right hand? 05:38:04 05:38:13 05:38:17 05:38:20
A I don't remember that, sir. 05:38:24
Q Do you remember seeing Mr. Rivera, whether it was in his left hand or his right hand fanning his hand in front of him in a side-to-side fashion? 05:38:25 05:38:32 05:38:38
A I saw him moving the object the second time I exited the vehicle. 05:38:45 05:38:51
Q Yes. 05:38:53
A But it was still muzzle down. It wasn't... 05:38:53
Q So to make sure, you never once saw him move his right hand in a fanning motion from his left to his right and then from his right back to his left and maybe again from his left back to his right, correct? 05:38:57 05:39:01 05:39:06 05:39:09 05:39:12
A With his right hand, no, sir, I never saw 05:39:12

that. 05:39:15

Q Did you see him ever fan his left hand -- 05:39:15

from his right to his left from his left to his 05:39:18

right, as though if he were pointing at you and then 05:39:22

Mr. Urrutia and then back to you? 05:39:26

A In his left hand he was moving the 05:39:28

firearm -- what I perceived as a firearm, but it was 05:39:31

muzzle -- it was not pointed towards me or my 05:39:35

partner's direction. 05:39:38

Q It was only in an up and down fashion as 05:39:39

you've described, correct? 05:39:43

A At that point, he was moving. It was at the 05:39:43

ground and it wasn't a big movement. It was a very 05:39:46

small movement. 05:39:50

Q And did you -- was there something at this 05:39:51

point in the sequence after you issued that command 05:39:57

that you saw Mr. Rivera do that caused you to shoot? 05:40:01

A Yes. 05:40:06

Q What did you see Mr. Rivera do that caused 05:40:07

you to shoot? 05:40:10

A At the end of my command simultaneously 05:40:10

Mr. Rivera began lifting the black semi-automatic 05:40:14

handgun in his left hand from the muzzle down 05:40:19

position, now coming up towards my partner's 05:40:22

direction. 05:40:28

Q And can you demonstrate that movement that you just described? 05:40:28 05:40:31

A Sure. 05:40:32

Q Please. And where was his arm in that movement when you shot -- fired your first round? 05:40:33 05:40:43

A His arm was coming up. 05:40:47

Q Was the gun pointed at Mr. Rivera when you shot? 05:40:50 05:40:55

MR. BRENTE: Mr. Rivera? The gun pointed at Mr. Rivera? 05:40:55 05:40:57

BY MR. CASILLAS: 05:40:57

Q Mr. Urrutia when you shot. 05:40:57

A No, sir, it was -- it was in his direction but it wasn't a muzzle up pointed right at him. 05:40:59 05:41:06

Q Could you demonstrate that point and that movement when you fired your first round, please. 05:41:11 05:41:16

A Sure. Around here. 05:41:18

Q And earlier you told us you fired at the center of mass in that rapid succession that you described. 05:41:23 05:41:33 05:41:40

Did Mr. Rivera react to the gunshots that you fired? 05:41:40 05:41:54

MR. BRENTE: I'm going to object as calling for speculation. 05:41:56 05:41:57

BY MR. CASILLAS: 05:41:59

Q Did you see him move? Did you see him flinch? Did you see him move as though he had been hit by bullets? 05:41:59 05:42:02 05:42:05

A As far as being struck by gun fire? 05:42:06

Q Yeah. 05:42:10

A I couldn't tell you 100 percent right now that it was a result of that. 05:42:10 05:42:12

Q Okay. 05:42:14

A All I could tell you from that night, I saw him grab with his hand right and grabbed his right side. 05:42:14 05:42:16 05:42:21

Q And how did he do that? 05:42:22

A With his right hand he grabbed his right side, like his right torso. 05:42:24 05:42:27

Q Could you stand up and demonstrate what you saw him do? And he was wearing shorts. Please sit down. 05:42:29 05:42:31 05:42:37

MR. BRENTE: Okay. That misstates testimony. He never said he was wearing shorts. 05:42:38 05:42:39

BY MR. CASILLAS: 05:42:41

Q I'm asking, was he wearing shorts? 05:42:41

A No. 05:42:43

Q Was he wearing pants? 05:42:43

A He was wearing long trousers. I couldn't tell you 100 percent if they were pants or kakis or 05:42:45 05:42:48

anything. 05:42:51
Q What color were they? 05:42:51
A They were dark in color. 05:42:53
Q Was he wearing shoes? 05:42:55
MR. BRENTE: Go ahead. 05:42:57
BY MR. CASILLAS: 05:42:57
Q Shoes? 05:42:58
A I never looked at his shoes. 05:42:58
Q Now that he faced you, could you tell or 05:43:00
could you make out whether he was a wearing, a 05:43:02
jacket, a T-shirt? 05:43:05
A I don't remember, sir. 05:43:07
MR. BRENTE: Just so you know, Counsel, to 05:43:12
be fair to you, 17 minutes. 05:43:14
MR. CASILLAS: We're working it. 05:43:18
MR. BRENTE: We're out of here at 05:43:19
6:00 o'clock, just so you know. 05:43:20
BY MR. CASILLAS: 05:43:20
Q Anyway, did you see him fall? 05:43:25
A Yes, sir. 05:43:34
Q At some point after he fell, did you see 05:43:37
that your vehicle was moving forward? 05:43:40
A After he fell, after the gun fire had 05:43:43
stopped, my tunnel vision broke and I did notice that 05:43:48
the car was moving forward towards Mr. Rivera's 05:43:53

direction. 05:43:57
Q At the time you were firing, were you moving forward? 05:43:57 05:44:03
A No, sir. 05:44:04
Q Okay. Did you ever see Mr. Rivera from the time that he turned around take any steps towards you? 05:44:05 05:44:10 05:44:12
A No, sir. 05:44:13
Q Did you ever see Mr. Rivera take any steps backwards? 05:44:16 05:44:26
A No, sir. 05:44:27
Q To make sure I understand he's moving in the sequence that you've described, he stops, he looks over his right shoulder, he turns clockwise towards you, and engages in the movements with his left arm as you've described, correct? 05:44:28 05:44:33 05:44:37 05:44:40 05:44:44
A Yes, sir. 05:44:45
Q And he never moves forward at all, correct, before you shoot? 05:44:46 05:44:53
A Unfortunately, due to me stepping out of the vehicle and look away from Mr. Rivera, I couldn't tell you 100 percent if he moved forward, if he moved back left or right. 05:44:54 05:44:59 05:45:02 05:45:05
Q You told me that after you looked over your left shoulder, cleared it, you never took your eye 05:45:05 05:45:09

off of Mr. Rivera from that point until the time you shot, correct? 05:45:12 05:45:17

A Correct, sir. 05:45:18

Q During that time did you ever see him move forward? 05:45:18 05:45:21

A No, sir. 05:45:22

Q Did you see the vehicle hit him? 05:45:25

A No, sir. 05:45:33

Q Did you feel the vehicle hit him? 05:45:35

A Yes, sir. 05:45:37

MR. BRENTE: I'm going to object as calling for speculation. I don't know how you would feel the vehicle hit him. 05:45:41 05:45:42 05:45:45

BY MR. CASILLAS: 05:45:46

Q Were you inside the vehicle when it ran him over? 05:45:46 05:45:49

A A portion of my body was inside the vehicle. 05:45:49

Q And did you have the sensation that it had hit something? 05:45:52 05:45:55

A Yes. 05:45:56

Q And did you conclude that it was his body? 05:45:57

A Prior to the shooting I didn't observe anything directly around Mr. Rivera, so it's assumed that the vehicle -- what I felt as the impact was Mr. Rivera. 05:46:00 05:46:04 05:46:09 05:46:12

Q And that was your assumption, yes? 05:46:13
A Yes. 05:46:15
Q Based on your perception and your 05:46:15
sensations, correct? 05:46:18
A Yes. 05:46:18
Q Did you hear him scream when the vehicle hit 05:46:20
him? 05:46:26
A No, sir. 05:46:27
Q Did you hear him say anything at all after 05:46:28
you fired your -- was it seven rounds? 05:46:32
A Yes, sir. 05:46:38
Q When those seven rounds stopped firing, did 05:46:38
you ever hear him say anything? 05:46:42
A No, sir. 05:46:43
Q Okay. Did you ever see Mr. Rivera again 05:46:43
after he falls to the ground? 05:46:51
A Eventually. 05:46:56
Q Now, can you describe how he fell to the 05:46:57
ground? 05:47:03
A He grabbed his side. It seemed like he was 05:47:09
starting to bend at the waist and he fell -- I don't 05:47:15
want to say right -- to his right. I don't want to 05:47:25
say straight ahead because it was more of an angle 05:47:28
to -- 05:47:31
Q Forward right? 05:47:31

A -- forward right. 05:47:32
Q And that would have been southeast. Yes? 05:47:33
A It would have been northeast. 05:47:39
Q Okay. And did you see his head hit the ground? 05:47:43 05:47:46
A Yes. 05:47:47
Q And when he went to the ground, were his arms at his side, facing forward, behind him? Do you remember that? 05:47:49 05:47:53 05:47:56
A His arms were to his side. 05:47:58
Q And did you keep an eye on what you've testified to was a firearm? 05:48:00 05:48:03
A I'm sorry, sir. Could you repeat it? 05:48:07
Q Yeah. You saw him fall to the ground. His arms were forward. Did you keep an eye on what you testified to was a firearm? 05:48:08 05:48:11 05:48:15
A I did no longer see it. 05:48:16
Q Do you know where it went? 05:48:17
A No, sir. 05:48:18
Q Did you ever see a toy gun underneath the car? 05:48:19 05:48:22
A No, sir. 05:48:22
Q Did you ever see a firearm underneath the car? 05:48:23 05:48:25
A No, sir. 05:48:25

Q I understand that after the car came to a stop, that you proposed to back it up, correct? 05:48:26 05:48:28

A Correct, sir. 05:48:34

Q Mr. Urrutia prevented you from doing that, correct? 05:48:35 05:48:38

A Correct, sir. 05:48:38

Q And, again, in terms of the hierarchy that you talked earlier, you listened to Mr. Urrutia, right? 05:48:39 05:48:42 05:48:46

A Not due to the hierarchy. It was more experience that I later thought that it was a correct decision. 05:48:46 05:48:50 05:48:54

Q You deferred to Mr. Urrutia, though, at that moment, correct? 05:48:55 05:48:57

A Yes. 05:48:57

Q Why did you want to take the car off of him? 05:48:59

A I wanted to take the car off him to render aid to him. 05:49:03 05:49:06

Q First aid of some sort? 05:49:10

A Some sort of first aid. 05:49:11

Q Eventually you put the vehicle in park, correct? 05:49:13 05:49:20

A Correct, sir. 05:49:20

Q And did you turn it off? 05:49:21

A No, sir. 05:49:24

Q Once you put it in park, did you exit the vehicle? 05:49:26 05:49:31

A Yes, sir. 05:49:31

Q And when you exited the vehicle, did you look to see where Mr. Rivera was? 05:49:32 05:49:34

A Yes, sir. 05:49:38

Q Could you see the front left tire of the vehicle? 05:49:39 05:49:43

A Yes, sir. 05:49:43

Q And could you see Mr. -- a portion of Mr. Rivera's upper torso and his head at or near the front of the front left wheel? 05:49:44 05:49:47 05:49:52

A Yes, sir. 05:49:54

Q Did you see him breathing? 05:49:55

A Unfortunately due to backing out and redeploying, I didn't have an accurate time to observe any chest rise or any blinking or mouth moving as a result. 05:50:02 05:50:06 05:50:10 05:50:14

Q You just bailed out backwards, correct? 05:50:15

A I redeployed back, yes. 05:50:18

Q As you were redeploying, did you attempt to make any observations of where that firearm was that you testified to? 05:50:20 05:50:35 05:50:42

A I did not see it. 05:50:44

Q Did you ever look for it afterwards at any 05:50:46

time? 05:50:49
A No, sir. 05:50:49
Q Why not? 05:50:51
A I couldn't see it. 05:50:53
Q Did you ever look underneath the car? I'm 05:50:55
sorry. Did you ever at any time after you shot 05:50:59
Mr. Rivera and deployed back to whatever position it 05:51:01
was that you deployed to, did you ever look 05:51:05
underneath the vehicle, your patrol car? 05:51:09
A After I redeployed the second time, I could 05:51:12
see Mr. Rivera, that his head is in front of the 05:51:17
driver's side front tire. I was not looking for a 05:51:26
firearm. I was looking if he was making any 05:51:30
movements as a result. 05:51:33
Q You couldn't tell whether he was alive or 05:51:34
dead, correct? 05:51:36
A Correct. 05:51:36
Q And what did you do to determine if he were 05:51:37
alive or dead? 05:51:40
A I didn't do anything. That was more -- as 05:51:42
we made our approach, we got a tactical plan. I 05:51:47
really wasn't involved with that because I was by 05:51:51
myself off south of the location. 05:51:54
Q At some supervisor's SUV, right? 05:51:57
A Yes. 05:52:00

So along with us was LAFD and LAFD pronounced Mr. Rivera. 05:52:03 05:52:09

Q And did you -- looking in a northwesterly direction from where you deployed behind the supervisor's SUV, could you see your patrol car? 05:52:11 05:52:18 05:52:21

A Looking in a northwesterly direction, yes, I could. 05:52:24 05:52:30

Q And the driver's side of the patrol car was facing you? 05:52:30 05:52:36

A Was facing me? 05:52:39

Q Yes. 05:52:40

A No. 05:52:41

Q As you looked at it. 05:52:41

A No. 05:52:43

Q The driver's side? 05:52:43

A Oh, I'm sorry. Yes. 05:52:44

Q And could you see underneath the portion of the vehicle? 05:52:46 05:52:47

A Some portion. 05:52:50

Q Did you see that somewhere underneath the vehicle in front of the rear left tire there was an object on the ground? 05:52:51 05:52:54 05:53:01

A No, sir, I didn't see it. 05:53:02

Q Did you see one of his shoes there on the ground? 05:53:03 05:53:08

A I don't recall, sir. 05:53:08
Q Do you remember seeing the toy gun next to 05:53:10
the shoe underneath the vehicle to the front of the 05:53:13
right left tire? 05:53:19
A Other than Mr. Rivera's head, I didn't see 05:53:21
anything underneath the car. 05:53:24
Q Did you look? 05:53:25
A Momentarily. 05:53:27
Q And you didn't see anything, correct? 05:53:29
A Correct. 05:53:31
Q You mentioned earlier and we discussed just 05:53:35
briefly the conversations you had with Mr. Urrutia 05:53:41
regarding the shooting. I think you said possibly 05:53:43
ten times, right? 05:53:49
A It could be five to ten times. 05:53:53
Q And did he ever say anything to you that 05:53:55
suggested he was sorry for having shot Eric Rivera? 05:54:02
A For the emotional portion of it, the loss of 05:54:09
a life is very dramatic not just to myself, but I 05:54:18
know towards the family. 05:54:23
Q Yes. 05:54:24
A And I'm sorry for that. 05:54:25
But in regards to his actions, he left me no 05:54:30
other choice, but there was the loss of a life and 05:54:33
that is very tragic and something that will live with 05:54:37

me forever. 05:54:42

Q Did Mr. Urrutia show such sentiments with you? 05:54:43 05:54:48

A Yes. 05:54:48

MR. BRENTE: Six minutes, Counsel. 05:54:58

MR. CASILLAS: What I propose, Counsel, is that we agree to the same stipulation, 05:55:00 05:55:04

MR. BRENTE: On the transcripts? 05:55:06

MR. CASILLAS: Yes. 05:55:08

MR. BRENTE: Yeah, that's fine. 05:55:09

MR. CASILLAS: Before we go off, I'll ask the court reporter how much time have we been on with Mr. Ramirez, Ms. Reporter, your best estimate. 05:55:10 05:55:13 05:55:16

THE VIDEOGRAPHER: I'll have to figure it out. About one hour 54 minutes and 52 minutes. 05:55:20 05:55:24

MR. CASILLAS: So two hours and change? 05:55:31

THE VIDEOGRAPHER: Yeah. 05:55:33

MR. CASILLAS: The Code allows me certainly more time than that, and not that I need more time, but I will suspend the deposition and not formally end this deposition. 05:55:34 05:55:37 05:55:40 05:55:44

I expect to do a motion to compel to allow me to ask the questions -- to get answers for the questions that you instructed him not to answer. 05:55:46 05:55:49 05:55:52

So with that proviso, I propose that we have 05:55:55

the court reporter attach the same stipulation. 05:55:59
MR. BRENTE: And I won't agree to that 05:56:00
proviso, so I'm not agreeing to suspend anything. 05:56:03
We -- what the Code allows is completely 05:56:07
irrelevant. We had an agreement as to how long we 05:56:10
would take. I'm not trying to be pejorative at all. 05:56:14
I'm just saying it because we're creating a record. 05:56:16
I think you wasted a lot of time with Officer Urrutia 05:56:19
maybe because you thought Officer Ramirez was a 05:56:22
probationary officer, which he obviously wasn't. 05:56:26
When we took breaks, we were always back 05:56:28
here. You were long. When we took lunch, we came 05:56:31
back on time. You were long. So there's a lot of 05:56:32
time respectfully in my mind that was wasted, so we 05:56:36
are not agreeing to suspend the deposition. The 05:56:38
deposition is over. If you're making some kind of a 05:56:40
motion, I'm not addressing that now. That has -- 05:56:43
MR. CASILLAS: Okay. 05:56:46
MR. BRENTE: -- nothing to do with me one 05:56:46
way or the other. 05:56:48
MR. CASILLAS: Okay. Same stip? 05:56:49
MR. BRENTE: Same stip? 05:56:50
MS. REPORTER: Would you like a copy, 05:56:50
Mr. Brente? 05:56:50
MR. BRENTE: Yes, synced as well, please. 05:56:52

THE VIDEOGRAPHER: This concludes today's proceedings. The total number of DVDs used was two. We are going off the record and the time is 5:57. 05:56:55 05:56:58 05:57:01

(Whereupon the same stipulation was used as in Arturo Urrutia's deposition taken on December 27, 2018 as follows: 05:57:01 05:57:01 05:57:01

"MR. CASILLAS: Okay. I don't think we have any more questions for you. 02:31:21 02:31:22

I propose the following stipulation with respect to the handling of the transcript: that's to relieve the court reporter of her duties under the Code; and that she be so relieved upon her depositing the original transcript addressed to defendants' counsel, Mr. Brente; that he agree to be the custodian of the original transcript, produce it upon reasonable notice for any proceeding related to this case; and that he'll also agree to lodge the original -- the signed original at trial; that we also agree that Mr. Brente will provide the original transcript to the deponent, asking him to read it, to sign it under penalty of perjury, and to make 02:31:27 02:31:28 02:31:30 02:31:32 02:31:34 02:31:36 02:31:37 02:31:42 02:31:46 02:31:47 02:31:49 02:31:52 02:31:53 02:31:56 02:32:02 02:32:04 02:32:07

any changes that he feels are necessary; and that Mr. Brente agree to notify me in writing of the doing of all of those things, his reading, his signing under the penalty of perjury; and to the extent that he makes any changes, any changes that he may make; and that we also agree that an original -- if the original is unavailable for any other proceedings for any reason, that a certified copy of the transcript can serve for any purpose that the original signed transcript can serve for. 02:32:08 02:32:11 02:32:15 02:32:18 02:32:21 02:32:23 02:32:25 02:32:29 02:32:35 02:32:37 02:32:39 02:32:42

"MR. BRENTE: So stipulated.") 02:32:45

(Deposition adjourned at 5:57 p.m.) 02:32:45

STATE OF CALIFORNIA)
) ss:
COUNTY OF ORANGE)

I, GINA ANNE GEORGE, do hereby certify:

That I am a duly qualified Certified Shorthand Reporter, in and for the State of California, holder of certificate number 11260, which is in full force and effect and that I am authorized to administer oaths and affirmations;

That the foregoing deposition testimony of the herein named witness was taken before me at the time and place herein set forth;

That prior to being examined, the witness named in the foregoing deposition, was duly sworn or affirmed by me, to testify the truth, the whole truth, and nothing but the truth;

That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me, and were thereafter transcribed under my direction and supervision;

That the foregoing pages contain a full, true and accurate record of the portion of the proceedings and testimony which was designated as "Confidential" to the best of my skill and ability;

That prior to the completion of the foregoing deposition, review of the transcript was requested.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the outcome of this action.

IN WITNESS WHEREOF, I have subscribed my name this ____ day of _____, ____.

_____

GINA ANNE GEORGE, CSR No. 11260

PENALTY OF PERJURY CERTIFICATE

I hereby declare I am the witness in the above captioned matter; that I have read the foregoing transcript or that it has been read to me, and I know the contents thereof; that the transcript is true to my knowledge, except as to those matters which are herein stated upon my information or belief, and as to those matters, I believe them to be true; that I find the transcript to be a true and accurate transcription of the portion of my testimony which was designated "Confidential", with the following corrections, if any:

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Reason _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on the ____ day of _____ 20___, at _____, _____.
(City) (State)

_____

DANIEL RAMIREZ

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